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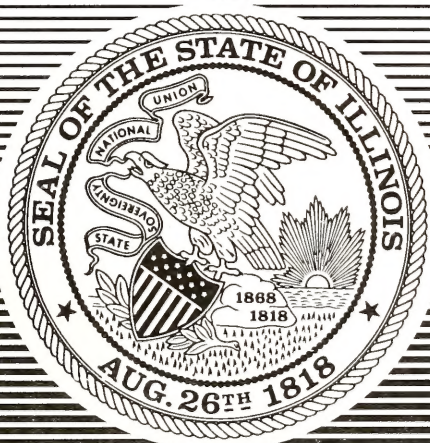
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ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 24, Issue 21
May 19, 2000

Pages 7,457 - 7,569

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Administrative Code Div.
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ILLINOIS REGISTER

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EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

- Issue 16 - April 14, 2000: Data Through March 31, 2000
- Issue 29 - July 14, 2000: Data Through June 30, 2000
- Issue 42 - October 13, 2000: Data Through September 30, 2000
- Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2000

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 27, 1999	January 7, 2000	Issue 28	June 26	July 7
Issue 2	January 4, 2000*	January 14	Issue 29	July 3	July 14
Issue 3	January 10	January 21	Issue 30	July 10	July 21
Issue 4	January 18*	January 28	Issue 31	July 17	July 28
Issue 5	January 24	February 4	Issue 32	July 24	August 4
Issue 6	January 31	February 14**	Issue 33	July 31	August 11
Issue 7	February 7	February 18	Issue 34	August 7	August 18
Issue 8	February 14	February 25	Issue 35	August 14	August 25
Issue 9	February 22*	March 3	Issue 36	August 21	September 1
Issue 10	February 28	March 10	Issue 37	August 28	September 8
Issue 11	March 6	March 17	Issue 38	September 5*	September 15
Issue 12	March 13	March 24	Issue 39	September 11	September 22
Issue 13	March 15	March 26	Issue 40	September 18	September 29
Issue 14	March 20	March 31	Issue 41	September 25	October 6
Issue 15	March 27	April 7	Issue 42	October 2	October 13
Issue 16	April 3	April 14	Issue 44	October 10*	October 20
Issue 17	April 10	April 21	Issue 43	October 16	October 27
Issue 18	April 17	April 28	Issue 44	October 23	November 3
Issue 19	April 24	May 5	Issue 45	October 30	November 13**
Issue 20	May 1	May 12	Issue 46	November 6	November 17
Issue 21	May 8	May 19	Issue 47	November 13	November 27**
Issue 22	May 15	May 26	Issue 48	November 20	December 1
Issue 23	May 22	June 2	Issue 49	November 27	December 8
Issue 24	May 30*	June 9	Issue 50	December 4	December 15
Issue 25	June 5	June 16	Issue 51	December 11	December 22
Issue 26	June 12	June 23	Issue 52	December 18	December 29
Issue 27	June 19	June 30	Issue 1	December 26*	January 5, 2001

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Mortgage Guaranty Insurance
- 2) Code Citation: 50 Ill. Adm. Code 202
- 3) Section Numbers:
202.20 Proposed Action:
202.30 Amendment
- 4) Statutory Authority: Implementing Article II and authorized by Section 4 and 401 of the Illinois Insurance Code [215 ILCS 5/4, 6 through 35, and 401].
- 5) A Complete Description of the Subjects and Issues Involved: The amendments allow for new industry practice of insuring up to 100% of the value of a home. Currently Illinois' insurance regulations prohibit potential homeowners from purchasing if they have less than 5% down payment because they prohibit the insurance companies from offering mortgage insurance for 100% of the value of the home. The mortgage insurance industry wants to provide insurance for 100% of the value of the home and New York and California have already changed their laws to permit such insurance. The subject involved is the definition of "Authorized real estate security" which currently prohibits home buyers from purchasing a house if they have less than 5% down payment. The change would allow home buyers to purchase mortgage insurance for 100% of the value.
- 6) Will these proposed amendments replace an emergency amendment currently in effect? Yes

7) Does this Amendment contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Denise Hamilton	or	Chuck Feinen
Rules Unit Supervisor		Staff Attorney
Department of Insurance		Department of Insurance
320 West Washington		320 West Washington
Springfield, Illinois 62767-0001		Springfield, Illinois 62767-0001

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

- (217) 785-8560 (217) 782-4515
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: it was not foreseen that the change in industry practice would occur this quickly.

The full text of the Proposed Amendments is identical to the Emergency Amendments being published in this issue of the *Illinois Register* on page 7559.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) Section Numbers:
350.280
Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Safety Inspection and Education Act (SIEA) [820 ILCS 220], and the Health and Safety Act (HSA) [820 ILCS 225].
- 5) A Complete Description of the Subjects and Issues Involved: HSA Section 4(d) requires the Illinois Department of Labor (IDOL) to adopt all federal occupational safety and health standards (OSH rules) the U.S. Secretary of Labor promulgates, modifies or revokes, within 60 days of their effective date unless the State already has in place alternative rules that are at least as effective as the OSH rules. Since 1985, IDOL has incorporated by reference all final OSH rules published in 29 CFR 1910, 1915 and 1926. IDOL most recently adopted the eight final OSH rules the U.S. Secretary of Labor promulgated, modified, or revoked in 29 CFR 1910, 1915 and 1926 between January 1998 and January 1999.

This proposed rulemaking incorporates by reference the three final OSH rules the U.S. Secretary of Labor promulgated, modified, or revoked in 29 CFR 1910, 1915 and 1926 between January 1999 and January 2000. IDOL adopts OSH rules rather than promulgating alternative standards to ensure that: (1) public sector workers have the same level of protection afforded to private sector workers within the State of Illinois, and (2) Illinois' public sector employers benefit from the elimination, updating, or clarification of the OSH rules IDOL previously adopted.

- a) FR 64-46846-47 Powered Industrial Truck Operator Training; Final Rule; Stay of Compliance Dates 8/27/1999

SUMMARY: The rulemaking stays the compliance date for the new standard as it applies to employers in the Marine Terminal and Longshoring Industries from December 1, 1999, until March 1, 2000. There is no financial impact. IDOL incorporated the new standard by reference at 23 Ill. Reg. 12447, 12450-51 (Oct. 2, 1999) (codified as amended at 56 Ill. Adm. Code 350.280(a)).

EFFECTIVE DATE: August 27, 1999.

- b) FR 64:22552-22553 Powered Industrial Truck Operator Training; Correction to Final Rule 4/27/1999

SUMMARY: The rulemaking clarifies that the compliance date for the new standard was December 1, 1999. There is no financial impact. IDOL

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

incorporated the new standard by reference at 23 Ill. Reg. 12447, 12450-51 (Oct. 2, 1999) (codified as amended at 56 Ill. Adm. Code 350.280(a)).

EFFECTIVE DATE: April 27, 1999.

- c) FR 64:13897-13912 Dipping and Coating Operations; Final Rule 3/23/99

SUMMARY: The rulemaking rewrites OSHA's dip-tank standards in plain language. Dip-tanks are an essential part of the process for coating metals, furniture stripping and refinishing, automobile repairs, aircraft maintenance, and leather tanning. The liquids used are often dangerous, such as acetone, cyanide, acids, chromic acids, perchloroethylene and methylene chloride. The final rule provides performance-oriented language, giving employers more compliance options than the former standards. They do not change the technical substance of the former standards or alter an employer's regulatory obligations. There is no financial impact.

EFFECTIVE DATE: April 22, 1999.

- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes. The proposed rule incorporates the eight final OSH rules located in 29 CFR 1910, 1915 and 1926, the U.S. Secretary of Labor promulgated, modified, or revoked between January 1999 and January 2000. It does not include any later amendments or editions.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: See paragraph 5.
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

William Rolando, Deputy Director
Illinois Department of Labor
One West Old State Capitol Plaza, Room 300
Springfield, Illinois 62701
(217) 782-1704 (telephone)
(217) 782-0596 (telefax)

A public hearing is scheduled on:

DEPARTMENT OF LABOR

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

July 7, 2000, at 1:00 P.M.

Illinois Department of Labor
160 North LaSalle Street, Suite C-1300
Chicago, Illinois 60601

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER 1: DEPARTMENT OF LABOR

SUBCHAPTER B: REGULATION OF WORKING CONDITIONS

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses or municipalities affected: Private employers are not affected by the proposed rulemaking. The proposal does, however, affect the State of Illinois and its political subdivisions. See STEA [820 ILCS 220/2(a)]; HSA [820 ILCS 225/2]; 56 Ill. Adm. Code 350.20(b). See also AFSWME v. Bernardi, Case No. 85 CH 11947 (Cook County Cir. Ct., May 25, 1985) (commanding IDOL to include units of local government within the regulatory definition of "employer").

Costs associated with compliance are related to correcting work site safety and health hazards. They will have a direct and positive impact within the public sector work force.

The public sector will realize savings resulting from fewer workplace injuries and occupational diseases, lower replacement employee costs, and increased employee productivity due to fewer lost work days and a healthier work force.

Section 4(e) of the HSA, and the rules thereunder at 56 Ill. Adm. Code 350.190, allow public sector employers to petition for variance from standards when compliance cannot be achieved because of factors beyond their control.

B) Reporting, bookkeeping, or other procedures required by compliance: None. Instead, the proposed incorporations by reference of the improvements and miscellaneous changes in OSH rules will result in annualized savings for employers and reduced paperwork burden.

C) Types of professional skills necessary for compliance: General administrative skills are sufficient for compliance with the proposed amendments.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

PART 350

HEALTH AND SAFETY

SUBPART A: INSPECTIONS AND CITATIONS

Purpose and Scope	Section 350.10
Definitions	350.20
Posting of Notice	350.30
Availability of Rules and Standards	350.40
Inspection Authority	350.50
Advance Notice of Inspection	350.60
Conduct of Inspections	350.70
Closing Conferences	350.80
Representatives of Employers and Employees	350.90
Objections During Inspection	350.100
Trade Secrets or Confidential Information	350.110
Consultation with Employees	350.120
Complaints by Employees	350.130
Imminent Danger	350.140
Citations	350.150
Posting of Citations	350.160
Appeal of Citation	350.170
Appeal of Abatement Period	350.180
Petition for Variance from Standards	350.190
Hearings	350.195
Advisory Inspections	350.200

SUBPART B: RECORDS OF INJURIES AND ILLNESSES

Emergency Notification	Section 350.210
Recordable Injuries and Illnesses	350.220
Log of Injuries and Illnesses	350.230
Supplementary Record of Injuries and Illnesses	350.240
Annual Summary	350.250
Retention of Records	350.260
Access to Records	350.270

SUBPART C: FEDERAL STANDARDS

Adoption of Federal Standards	Section 350.280
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DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by the Safety Inspection and Education Act [820 ILCS 220] and the Health and Safety Act [820 ILCS 225].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 23 Ill. Reg. 3993, effective October 1, 1999; amended at 23 Ill. Reg. 12447, effective October 2, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART C: FEDERAL STANDARDS

Section 350.280 Adoption of Federal Standards

a) Incorporations

1) Pursuant to Section 4 of the Health and Safety Act, the Department hereby adopts by reference the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration as effective August 27, 1999, and amended at FR64:46846; FR64-22552; FR64:13897; March 17, 1999, and amended at FR63:19197; FR63:3813; FR63:26098; FR63:34509; FR63:35137; FR63:59717; FR63:66919; FR63:66238. These standards are located at 29 CFR 1910, 1915, and 1926 and do not include any later amendments or editions.

2) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998, no later amendments or editions) are incorporated into this Part. Where specific reference is made, and that reference incorporates material by reference, the material incorporated is a part of this Part and shall be that which is effective as indicated, not including any later amendments or editions. Copies are available at the Department's Chicago office. Copies of the federal Occupational Safety and Health Administration material may also be obtained at <<http://www.osha-slc.gov/SUTC/respiratoryprotection/index.html>>.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998).

Questions & Answers on the Respiratory Protection Standard, OSHA Memorandum (Aug. 17, 1998).

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998).

Small Entity Compliance Guide for the Revised Respiratory Protection Standard, OSHA Directorate of Health Standards Programs (Sept. 30, 1998).

Illinois Fire Chiefs Association - A Guideline on OSHA's 1998 Update of its 1971 Respiratory Protection Standard (March 9, 1999).

3) The following interpretation of 29 CFR 1910 and 1926 Standards Improvement (Miscellaneous Changes) For General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic (1998, no later amendments or editions), 29 CFR 1915 and 1926 Occupational Exposure to Asbestos (1998, no later amendments or editions), 29 CFR 1910 Methylene Chloride (1998, no later amendments or editions), 29 CFR 1910 Permit-Required Confined Spaces (1998, no later amendments or editions), 29 CFR 1910, 1915, 1917, 1918, and 1926 Powered Industrial Truck Operator Training (1999, no later amendments or editions), are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <<http://www.osha.gov/comp-links.html>>.

Preamble: Standards Improvement (Miscellaneous Changes) For General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998).

Preamble: Occupational Exposure to Asbestos, 63 Fed. Reg. 35137 (June 29, 1998).

Preamble: Methylene Chloride; Final Rule, 63 Fed. Reg. 50711 (Sept. 22, 1998).

Preamble: Permit-Required Confined Spaces; Final Rule, 63 Fed. Reg. 66018 (Dec. 1, 1998).

Preamble: Powered Industrial Truck Operator Training; Final Rule, 63 Fed. Reg. 66238 (Dec. 1, 1998).

4) The following interpretation of 29 CFR 1910 Dipping and Coating Operations (1999, no later amendments or editions), is incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <<http://www.osha.gov/comp-links.html>>.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

Preamble: Dipping and Coating Operations, Final Rule, 64 Fed. Reg. 13697 (March 23, 1999).

- b) The Department shall consider any subsequent amendments to the health and safety standards adopted by the Federal Occupational Safety and Health Administration. Such amendments will be adopted by reference, or substitute provisions which provide equivalent protection will be adopted. Amendments will be adopted through filing with the Secretary of State and publication in the Illinois Register as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].
- c) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR ~~Part~~ 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991, no later amendments or editions). The dates listed in paragraph (i) of 29 CFR ~~Part~~ 1910.1030 are not applicable to Illinois public sector employers. The effective date (paragraph (i)(1) of the adopted standard) for the Illinois public sector shall be the effective date of this amendment, as published in the Illinois Register. The compliance date for paragraph (i)(2) of the adopted standard shall be 30 days after the effective date, the date for paragraph (i)(3) shall be 60 days after the effective date, and the date for paragraph (i)(4) shall be 90 days after the effective date.
- d) The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are one, two, three, and four years, respectively, after August 1, 1994.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Alcoholic Liquor Act
- 2) Code Citation: 86 Ill. Adm. Code 420
- 3) Section Numbers: Proposed Action:
420.10 Amendment
- 4) Statutory Authority: 235 ILCS 5
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is a result of Public Acts 91-38 and 90-625. Amends the Liquor Control Act of 1934 by amending the rates at which alcoholic liquor is taxed. Also defines "cider."
- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:
- Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
Phone: (217) 782-6996
- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons engaged in business as a manufacturer or as an importing distributor of alcoholic liquor.

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS
TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE
PART 420
ALCOHOLIC LIQUOR ACT

- B) Reporting, bookkeeping, or other procedures required for compliance: Minimal
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

Section	
420.10	Gallonge Taxes
420.20	Claims to Recover Erroneously Paid Tax
420.30	Shipments of Alcoholic Liquors Out of Illinois
420.40	Non-Beverage Alcoholic Preparations and Compounds
420.50	Non-Beverage Users of Alcoholic Liquors
420.60	Act Does Not Apply
420.70	Tax Provisions of Act Do Not Apply
420.80	Monthly Return
420.90	Books and Records
420.100	Carriers
420.110	Sales to Governmental Bodies
420.120	Warehousing of Liquors
420.130	Non-Beverage User's Books and Records
420.140	Tax-Free Sales of Alcoholic Liquor for Use Aboard Ships Operating in Foreign Commerce Outside the Continental Limits of the United States

AUTHORITY: Implementing and authorized by Article VIII of the Liquor Control Act of 1934 [235 ILCS 5/Art. VIII].

SOURCE: Filled and effective June 17, 1958; codified at 8 Ill. Reg. 17910; amended at 14 Ill. Reg. 18083, effective October 18, 1990; amended at 15 Ill. Reg. 3498, effective February 21, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 420.10 Gallonge Taxes

a) Measure of Tax:

- 1) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of alcoholic liquor at the rate of 73¢ per gallon for wine containing less than 20% of alcohol by volume other than cider containing less than 7% alcohol by volume; ~~alcoholic liquor; other than beer; containing 14% or less of alcohol by volume; 66¢ per gallon for alcoholic liquor containing more than 14% and less than 28% of alcohol by volume; 18.5¢ per gallon on beer; 18.5¢ per gallon for cider containing not less than 0.5% alcohol by volume nor more than 7% alcohol by volume; and \$4.50 per gallon on alcoholic liquor having 20% or more of alcohol by volume, manufactured or imported for sale or use by such manufacturer, or as agent for any other person, or purchased tax-free for sale or use by such manufacturer, or as agent for any other person, or imported for~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

sale or use by such importing distributor, or as agent for any other person, or purchased tax-free for sale or use by such importing distributor, or as agent for any other person.

2) For purposes of this Section, "cider" means any alcoholic beverage obtained by the alcohol fermentation of the juice of apples or pears including, but not limited to, flavored, sparkling, or carbonated cider.

b) Persons Liable for Tax:

- 1) Sales of alcoholic liquor by an Illinois licensed foreign importer to an Illinois licensed importing distributor of alcoholic liquor are not taxable even if both licenses are held by the same legal entity.
- 2) Where one licensed manufacturer or importing distributor sells alcoholic liquor to another licensed manufacturer or importing distributor, such sale may be made tax-free to the extent to which the sale of alcoholic liquor by one Illinois licensed manufacturer or importing distributor to another Illinois licensed manufacturer or importing distributor is authorized by the licensing provisions of the Act. When such sale is made tax-free, the purchasing manufacturer or importing distributor is responsible for paying the proper tax unless such purchaser sells the alcoholic liquor that he has bought tax-free to another licensed manufacturer or importing distributor. Under circumstances authorized by the licensing provisions of the Act and elects not to pay the tax. This procedure may be continued until a licensed manufacturer or importing distributor sells the alcoholic liquor to someone not licensed as a manufacturer or importing distributor, in which event, if the tax liability has not been assumed previously, such manufacturer or importing distributor who makes the sale to a purchaser not licensed as a manufacturer or importing distributor must pay the proper tax when filing his return for the month in which he makes such taxable sale unless there is some other basis for claiming tax exemption, such as the fact that the sale is in interstate commerce (see Section 420.30) or that the sale is made to a nonbeverage user (see Sections 420.500 and 420.110(b)).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers:
130.120 Proposed Action:
130.209 Amendment
New Section
- 4) Statutory Authority: 35 ILCS 120
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Section 130.120 are a result of Public Act 90-0042 and amend the Retailers' Occupation Tax regulations by providing that gross receipts from (1) the sale of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act and (2) the sale of jet fuel and petroleum products sold to and used in the conduct of a high impact service facility's business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act, are exempt from Retailers' Occupation Tax. This rulemaking is also a result of Public Act 91-637, which provides that gross receipts from the sale of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children are exempt from Retailers' Occupation Tax. However, this exemption does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. Also provides the statutory limitations on this exemption.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action IL Register Citation

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

130.340	Amendment	2/18/00, 24 111. Reg. 2616
130.101	Amendment	2/25/00, 24 111. Reg. 3128
130.110	Amendment	2/25/00, 24 111. Reg. 3128
130.111	Amendment	2/25/00, 24 111. Reg. 3128
130.120	Amendment	2/25/00, 24 111. Reg. 3128
130.121	Amendment	2/25/00, 24 111. Reg. 3128
130.205	Amendment	2/25/00, 24 111. Reg. 3128
130.215	Amendment	2/25/00, 24 111. Reg. 3128
130.220	Amendment	2/25/00, 24 111. Reg. 3128
130.225	Amendment	2/25/00, 24 111. Reg. 3128
130.305	Amendment	2/25/00, 24 111. Reg. 3128
130.315	Amendment	2/25/00, 24 111. Reg. 3128
130.320	Amendment	2/25/00, 24 111. Reg. 3128
130.321	Amendment	2/25/00, 24 111. Reg. 3128
130.330	Amendment	2/25/00, 24 111. Reg. 3128
130.331	Amendment	2/25/00, 24 111. Reg. 3128
130.335	Amendment	2/25/00, 24 111. Reg. 3128
130.345	Amendment	2/25/00, 24 111. Reg. 3128
130.350	Amendment	2/25/00, 24 111. Reg. 3128
130.351	Amendment	2/25/00, 24 111. Reg. 3128
130.401	Amendment	2/25/00, 24 111. Reg. 3128
130.410	Amendment	2/25/00, 24 111. Reg. 3128
130.415	Amendment	2/25/00, 24 111. Reg. 3128
130.425	Amendment	2/25/00, 24 111. Reg. 3128
130.435	Amendment	2/25/00, 24 111. Reg. 3128
130.445	Amendment	2/25/00, 24 111. Reg. 3128
130.535	Amendment	2/25/00, 24 111. Reg. 3128
130.540	Amendment	2/25/00, 24 111. Reg. 3128
130.701	Amendment	2/25/00, 24 111. Reg. 3128
130.705	Amendment	2/25/00, 24 111. Reg. 3128
130.720	Amendment	2/25/00, 24 111. Reg. 3128
130.735	Amendment	2/25/00, 24 111. Reg. 3128
130.745	Amendment	2/25/00, 24 111. Reg. 3128
130.801	Amendment	2/25/00, 24 111. Reg. 3128
130.805	Amendment	2/25/00, 24 111. Reg. 3128
130.815	Amendment	2/25/00, 24 111. Reg. 3128
130.901	Amendment	2/25/00, 24 111. Reg. 3128
130.905	Amendment	2/25/00, 24 111. Reg. 3128
130.910	Amendment	2/25/00, 24 111. Reg. 3128
130.1001	Amendment	2/25/00, 24 111. Reg. 3128
130.1201	Amendment	2/25/00, 24 111. Reg. 3128
130.1305	Amendment	2/25/00, 24 111. Reg. 3128
130.1401	Amendment	2/25/00, 24 111. Reg. 3128
130.1405	Amendment	2/25/00, 24 111. Reg. 3128
130.1415	Amendment	2/25/00, 24 111. Reg. 3128
130.1501	Amendment	2/25/00, 24 111. Reg. 3128
130.1515	Amendment	2/25/00, 24 111. Reg. 3128
130.1701	Amendment	2/25/00, 24 111. Reg. 3128

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

130.1801	Amendment	2/25/00, 24 111. Reg. 3128
130.1901	Amendment	2/25/00, 24 111. Reg. 3128
130.1910	Amendment	2/25/00, 24 111. Reg. 3128
130.1915	Amendment	2/25/00, 24 111. Reg. 3128
130.1920	Amendment	2/25/00, 24 111. Reg. 3128
130.1930	Amendment	2/25/00, 24 111. Reg. 3128
130.1935	Amendment	2/25/00, 24 111. Reg. 3128
130.1940	Amendment	2/25/00, 24 111. Reg. 3128
130.1960	Amendment	2/25/00, 24 111. Reg. 3128
130.1965	Amendment	2/25/00, 24 111. Reg. 3128
130.1971	Amendment	2/25/00, 24 111. Reg. 3128
130.1975	Amendment	2/25/00, 24 111. Reg. 3128
130.1980	Amendment	2/25/00, 24 111. Reg. 3128
130.2000	Amendment	2/25/00, 24 111. Reg. 3128
130.2005	Amendment	2/25/00, 24 111. Reg. 3128
130.2010	Amendment	2/25/00, 24 111. Reg. 3128
130.2015	Amendment	2/25/00, 24 111. Reg. 3128
130.2035	Amendment	2/25/00, 24 111. Reg. 3128
130.2045	Amendment	2/25/00, 24 111. Reg. 3128
130.2055	Amendment	2/25/00, 24 111. Reg. 3128
130.2060	Amendment	2/25/00, 24 111. Reg. 3128
130.2065	Amendment	2/25/00, 24 111. Reg. 3128
130.2070	Amendment	2/25/00, 24 111. Reg. 3128
130.2075	Amendment	2/25/00, 24 111. Reg. 3128
130.2085	Amendment	2/25/00, 24 111. Reg. 3128
130.2100	Amendment	2/25/00, 24 111. Reg. 3128
130.2105	Amendment	2/25/00, 24 111. Reg. 3128
130.2115	Amendment	2/25/00, 24 111. Reg. 3128
130.2130	Amendment	2/25/00, 24 111. Reg. 3128
130.2140	Amendment	2/25/00, 24 111. Reg. 3128
130.2150	Amendment	2/25/00, 24 111. Reg. 3128
130.2160	Amendment	2/25/00, 24 111. Reg. 3128
130.2165	Amendment	2/25/00, 24 111. Reg. 3128
130.2170	Amendment	2/25/00, 24 111. Reg. 3128
ILLUSTRATION A		
10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate nor does it modify any existing State mandates.		
11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:		
Gina Roccaforte Associate Counsel		

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not for profit corporations affected: Telecommunications retailers and certain entities that consist primarily of volunteers and include parents and teachers of the school children and are recognized by a school district that hold certain fundraising events.
- B) Reporting, bookkeeping, or other procedures required for compliance:
Minimal
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE
PART 130
RETAILERS' OCCUPATION TAX
SUBPART A: NATURE OF TAX

Section	Character and Rate of Tax
130.101	Responsibility of Trustees, Receivers, Executors or Administrators
130.105	Occasional Sales
130.110	Sale of Used Motor Vehicles by Leasing or Rental Business
130.111	Habitual Sales
130.115	Nontaxable Transactions
130.120	

SUBPART B: SALE AT RETAIL

Section	The Test of a Sale at Retail
130.201	Sales for Transfer Incident to Service
130.205	Sales of Tangible Personal Property to Purchasers for Resale
130.210	Further Illustrations
130.215	Sales to Lessors of Tangible Personal Property
130.220	

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	Farm Machinery and Equipment
130.305	Food, Drugs, Medicines and Medical Appliances
130.310	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.315	Gasohol
130.320	Fuel Used by Air Common Carriers in International Flights
130.321	Graphic Arts Machinery and Equipment Exemption
130.325	Manufacturer's Purchase Credit
130.330	Pollution Control Facilities
130.331	Rolling Stock
130.335	Oil Field Exploration, Drilling and Production Equipment
130.340	Coal Exploration, Mining, Off Highway Hauling, Processing,
130.345	Maintenance and Reclamation Equipment
130.350	Aggregate Manufacturing
130.351	

SUBPART D: GROSS RECEIPTS

Section	Meaning of Gross Receipts
130.401	How to Avoid Paying Tax on State or Local Tax Passed on to the
130.405	

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NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

Purchaser

130.715

Cost of Doing Business Not Deductible

130.720

Transportation and Delivery Charges

130.725

Finance or Interest Charges--Penalties--Discounts

130.730

Traded-In Property

130.735

Deposit or Prepayment on Purchase Price

130.740

State and Local Taxes Other Than Retailers' Occupation Tax

130.745

Penalties

130.801

Federal Taxes

130.805

Installation, Alteration and Special Service Charges

130.810

Motor Vehicle Leasing and Trade-In Allowances

130.815

130.820

130.825

SUBPART E: RETURNS

Section

Monthly Tax Returns--When Due--Contents

130.501

Quarterly Tax Returns

130.505

Returns and How to Prepare

130.510

Annual Tax Returns

130.515

First Return

130.520

Final Returns When Business Is Discontinued

130.525

Who May Sign Returns

130.530

Returns Covering More Than One Location Under Same

130.535

Registration--Separate Returns for Separately Registered Locations

130.540

Payment of the Tax, Including Quarter Monthly Payments in Certain

130.545

Instances

130.550

Returns on a Transaction by Transaction Basis

130.551

Registrants Must File a Return for Every Return Period

130.555

Filing of Returns for Retailers by Suppliers Under Certain

130.560

Circumstances

130.1001

Prepayment of Retailers' Occupation Tax on Motor Fuel

130.1101

Vending Machine Information Returns

130.1105

Verification of Returns

130.1110

Section

130.1201

130.1205

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Sub-Certificates of Registration

Separate Registrations for Different Places of Business of Same

Taxpayer Under Some Circumstances

Display

Replacement of Certificate

Certificate Not Transferable

Certificate Required For Mobile Vending Units

Revocation of Certificate

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SUBPART I: PENALTIES AND INTEREST

Civil Penalties

Interest

Criminal Penalties

130.901

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SUBPART J: BINDING OPINIONS

When Opinions from the Department are Binding

130.1001

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SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Definition of Federal Area

When Deliveries on Federal Areas Are Taxable

No Distinction Between Deliveries on Federal Areas and Illinois

Deliveries Outside Federal Areas

130.1101

130.1105

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SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

General Information

Due Date that Falls on Saturday, Sunday or a Holiday

130.1201

130.1205

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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

General Information

Due Date that Falls on Saturday, Sunday or a Holiday

130.1201

130.1205

130.1205

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section	
130.1301	When Lessee Must File Return for Leased Department
130.1301	When Lessor of Premises Should File Return for Leased Department
130.1310	Meaning of "Lessor" and "Lessee" in this Regulation
	SUBPART N: SALES FOR RESALE
Section	
130.1401	Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405	Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410	Requirements for Certificates of Resale (Repealed)
130.1415	Resale Number--When Required and How Obtained
130.1420	Blanket Certificate of Resale (Repealed)
	SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX
Section	
130.1501	Claims for Credit--Limitations--Procedure
130.1505	Disposition of Credit Memoranda by Holders Thereof
130.1510	Refunds
130.1515	Interest
	SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS
Section	
130.1601	When Returns are Required After a Business is Discontinued
130.1605	When Returns are Not Required After Discontinuation of a Business
130.1610	Cross Reference to Bulk Sales Regulation
	SUBPART Q: NOTICE OF SALES OF GOODS IN BULK
Section	
130.1701	Bulk Sales: Notices of Sales of Business Assets
	SUBPART R: POWER OF ATTORNEY
Section	
130.1801	When Powers of Attorney May be Given
130.1805	Filing of Power of Attorney With Department
130.1810	Filing of Papers by Agent Under Power of Attorney
	SUBPART S: SPECIFIC APPLICATIONS
Section	
130.1901	Addition Agents to Plating Baths

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiroprodists, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1955	Farm Chemicals
130.1960	Finance Companies and Other Lending Agencies - Installment Contracts - Repossessions
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies

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NOTICE OF PROPOSED AMENDMENTS

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130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 130.2065 Sales of Automobiles for Use In Demonstration
 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products
 130.2075 Sales to Construction Contractors, Real Estate Developers and Speculative Builders
 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
 130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions
 130.2090 Sales to Railroad Companies
 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 130.2100 Sellers of Feeds and Breeding Livestock
 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
 130.2110 Sellers of Seeds and Fertilizer
 130.2115 Sellers of Machinery, Tools and the Like
 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
 130.2125 Trading Stamps and Discount Coupons
 130.2130 Undertakers and Funeral Directors
 130.2135 Vending Machines
 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
 130.2145 Vendors of Meals
 130.2150 Vendors of Memorial Stones and Monuments
 130.2155 Vendors of Signs
 130.2156 Vendors of Steam
 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
 130.2165 Veterinarians
 130.2170 Warehousemen

ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended

at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; reclassified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1989, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1989, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 741, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 15 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 22, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. _____, effective

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

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- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) which are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older (see Section 130.2005 of this Part);
- i) which are made to any governmental body (see Section 130.2080 of this Part);
- j) of pollution control facilities (see Section 130.335 of this Part);
- k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code (625 ILCS 5/3-603), or if the nonresident purchaser has vehicle registration plates to transfer to

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- n) the motor vehicle upon returning to his home state; or merchandise in bulk when sold from a vending machine for 1¢ (see Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals provided that all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) of any petroleum product, if the seller is prohibited by Federal law from charging tax to the purchaser.
 - 1) For example, Federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, Federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
 - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease (see Section 130.305);
- u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale;
- v) of graphic arts machinery and equipment, including repair and replacement parts (see Section 130.325);
- w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or

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permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile-renting as defined in the Automobile Renting Occupation and Use Tax Act;

- x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois (see Section 130.2005);
- y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001];
- z) of personal property sold to an Illinois County Fair Association for use in conducting, operating or promoting the County Fair;
- aa) of personal property sold to any not-for-profit music or dramatic arts organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 49-5-E-A- 501) and that is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis;
- bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (see Section 130.2008);
- cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion;
- dd) of oil field exploration, drilling and production equipment costing \$250 or more (see Section 130.345);
- ee) of photoprocessing machinery and equipment, including repair and replacement parts (see Section 130.2000);
- ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more, including replacement parts and equipment costing \$250 or more (see Section 130.350);
- gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for destination outside the United States (Section 2-5-of-the-act) (see Section 130.321);
- hh) of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and

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date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit; and

- }}) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads, and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made

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available to the Department for inspection or audit;¹⁷ beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (kk) does not apply to fundraising events:

- 1) for benefits of private home instruction, or
- 2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(33)].

11) of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:

- 1) will make an investment in a business enterprise project of \$100,000.000 or more;
- 2) will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and
- 3) is certified by the Department of Commerce and Community Affairs as contractually obligated to meet the requirements specified in subsection (11)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 11 of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 11 of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order (Section 11 of the Act); and

mm) of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act (Section 11.1 of the Act). High impact service facilities qualifying under the Act and seeking

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the exemption under Section 11.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 11.1 of the Act (Section 11.2 of the Act). The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 11.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 11.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order (Section 11 of the Act).

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools

a) Beginning January 1, 2000, the Retailers' Occupation Tax does not apply to the sale of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (a) does not apply to fundraising events:

- 1) for the benefit of private home instruction, or
- 2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity (Section 2-5 of the Act). The following requirements must be met for the exemption to apply:

- A) The fundraising event must be for the benefit of the school. If the event benefits others, the exemption does not apply. For example, if a parent-teacher association sells clothes donated to it by parents and gives a portion of the sales proceeds back to the donors, the exemption does not apply because the sale benefits the donors. However, if the parent-teacher association sells donated clothes and the entire proceeds benefit the school, the exemption applies; and
- B) The fundraising event must be sponsored by an entity

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"recognized" by the school district or districts. A school district must grant approval to the entity, in the form of a written certification, to sell tangible personal property for the purpose of benefiting the school, schools, school district, or school districts. In the case of fundraising events benefiting a private school that is not part of a school district, the private school must grant approval to the entity, in the form of a written certification, to sell tangible personal property for the purpose of benefiting the school; and

- C) The entity sponsoring the fundraising event must be comprised primarily of volunteers, including parents and teachers of the school children.

- b) The exemption does not apply to situations in which the fundraising group purchases items that it will in turn sell from a supplier who sells the items to the fundraising group for the purpose of resale and profits from the sale to the fundraising group. For example, the exemption does not apply to a fundraising group that purchases complete, ready-to-sell items, such as greeting cards, wrapping paper, holiday ornaments, candy bars, and frozen pizzas, for resale from a supplier who profits from the sale to the fundraising group. However, the exemption applies when a parent-teacher association purchases items that it will use in making a meal for a spaghetti dinner fundraiser (e.g., spaghetti sauce, meatballs, bread, and soft drinks) from a supermarket. In this case, the items purchased by the parent-teacher association are not complete and ready-to-sell items. Rather, the parent-teacher association must prepare the items for the fundraising event. The parent-teacher association may use its exemption identification number ("E" number) to purchase the food items tax-free at the supermarket (however, if the fundraising group does not have an "E" number, it would be required to pay tax to the supermarket). The proceeds from the spaghetti dinner would be exempt from Retailers' Occupation Tax.

- c) A fundraising group may engage in tax-free selling under this Section only when it sells items that it has prepared or that are donated to it. By way of illustration, these types of sales include the following:

- 1) Bake sales or bazaars selling items that are prepared by or donated to the fundraising group; or
- 2) Sales of donated clothes or other items by a fundraising group, provided that the funds go solely to benefit the school; or
- 3) Spaghetti dinner events selling food that is prepared by a parent-teacher association.

- d) By way of illustration, the following types of selling are not exempt:
- 1) A parent-teacher association's sale of wrapping paper, holiday goods, and ready-to-sell food products (such as candy bars, nuts, or frozen pizzas) that are purchased from a supplier for purposes of resale, where the supplier makes a profit from the sale to the

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parent-teacher association. Such items fall outside the restriction that the items be prepared by or donated to the parent-teacher association.

- 2) Sales of class rings by a parent-teacher association. These items are not prepared by or donated to the parent-teacher association. Such rings have been purchased from a supplier for resale, and the supplier has made a profit from the sale to the parent-teacher association.

- 3) If a parent-teacher association contracts with a caterer for a fundraising dinner, sales of the dinner cannot be made tax-free. Again, the parent-teacher association has purchased ready-made items from a caterer for purposes of resale, and the caterer has profited from the sale.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Tobacco Product Manufacturers' Escrow Act
- 2) Code Citation: 86 Ill. Adm. Code 445
- 3) Section Numbers:
445.10 New Section
445.20 New Section
- 4) Statutory Authority: 30 ILCS 168
- 5) A Complete Description of the Subjects and Issues Involved: Creates regulations as required by the Tobacco Product Manufacturers' Escrow Act to ascertain the amount of State Excise Tax paid on cigarettes of tobacco product manufacturers.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Terry D. Charlton
Associate Counsels
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Tobacco product manufacturers and distributors.
- B) Reporting, bookkeeping or other procedures required for compliance:
Minimal

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- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Rulemaking begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 445
TOBACCO PRODUCT MANUFACTURERS' ESCROW ACT

Section

445.10 Definitions

445.20 Tobacco Product Escrow Reporting Requirements

AUTHORITY: Implementing and authorized by the Tobacco Product Manufacturers' Escrow Act [30 ILCS 168].

SOURCE: Adopted at 24 Ill. Reg. _____, effective _____.

Section 445.10 Definitions

"Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

"Distributor" means any and each of the following:

- 1) Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from outside this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by the Cigarette Tax Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.
- 2) Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State.
- 3) Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of the Cigarette Tax Act.

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"Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State of Illinois and leading United States tobacco product manufacturers.

"Participating manufacturer" means a tobacco product manufacturer who participates in the Master Settlement Agreement as provided in Section II(jj) of the Master Settlement Agreement.

"Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subdivision (a)(2)(B) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

"Tobacco product manufacturer" means any entity that, after June 30, 1999, directly (and not exclusively through any affiliate):

- 1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection 11(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection 11(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

- 2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

- 3) becomes a successor of an entity described in items (1) or (2). "Tobacco product manufacturer" does not mean an affiliate of a tobacco product manufacturer unless the affiliate itself falls within any of items (1) through (3) of this definition.

"Unit sold" means an individual cigarette sold in the State of Illinois by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) during the year in question, as measured by excise

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taxes collected by the State on packs bearing the excise tax stamp of the State.

Section 445.20 Tobacco Product Escrow Reporting Requirements

- a) Any tobacco product manufacturer selling cigarettes to consumers within the State of Illinois (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) after June 30, 1999 is required to do one of the following:
 - 1) become a participating manufacturer and generally perform its financial obligations under the Master Settlement Agreement; or
 - 2) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):
 - A) For 1999: \$0.0094241 per unit sold after June 30, 1999;
 - B) For 2000: \$0.0104712 per unit sold;
 - C) For each of 2001 and 2002: \$0.0136125 per unit sold;
 - D) For each of 2003 through 2006: \$0.0167539 per unit sold;
 - E) For each of 2007 and each year thereafter: \$0.0188482.
- b) Each tobacco product manufacturer that elects to place funds into escrow shall annually certify to the Attorney General the amount placed into escrow each year on or before April 15. Such affidavit shall be filed upon forms furnished and prescribed by the Attorney General and contain such other information as the Attorney General may reasonably require.
- c) Every distributor who is not a manufacturer of cigarettes shall, on or before the 1st day of March, file a report with the Attorney General, showing the quantity of cigarettes sold bearing Illinois cigarette tax stamps during the preceding calendar year and the name and address of the non-participating manufacturer of the cigarettes sold. Such report shall be filed upon forms furnished and prescribed by the Attorney General and shall contain such other information as the Attorney General may reasonably require. Distributors are not required to file this report if the cigarettes sold were manufactured by a participating manufacturer.
- d) Every nonparticipating manufacturer of cigarettes shall keep at his licensed address complete and accurate records of cigarettes sold and shall preserve and keep at his licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes.
- e) All books and records and other papers and documents that are required to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Office of the Attorney General or its duly authorized agents and employees.

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- 1) Heading of the Part: Americans with Disabilities Act And Section 504 Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 300
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
300.10	Amended
300.20	Amended
300.30	Amended
300.40	Amended
300.50	Amended
300.80	Amended
- 4) Statutory Authority: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (40 USC 12131-12134), as specified in Title II Regulations (28 CFR 35), Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), and authorized by the Civil Administrative Code of Illinois (20 IACS 5/16).
- 5) Effective Date of Rulemaking: May 6, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 21, 2000, 24 Ill. Reg. 958
- 10) Has JCAR Issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Amendment: This rulemaking amends this Part to include the grievance procedures for qualified persons with disabilities covered by Section 504 of the federal Rehabilitation Act. This rulemaking replaces 59 Ill. Adm. Code 111.10, which is being repealed in a separate

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action.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendment begins on the next page:

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TITLE 4: GRIEVANCE PROCEDURES
CHAPTER IX: DEPARTMENT OF HUMAN SERVICES

PART 300

AMERICANS WITH DISABILITIES ACT AND SECTION 504 GRIEVANCE PROCEDURE

Section	Purpose
300.10	Definitions
300.20	Procedures
300.30	ADA/504 Coordinator Review
300.40	Secretary Review
300.50	Accessibility
300.60	Case-by-Case Resolution
300.70	ADA/504 Notice
300.80	

AUTHORITY: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II Regulations (28 CFR 35), Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 16 Ill. Reg. 15102, effective September 21, 1992; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9324; old Part repealed at 23 Ill. Reg. 3971, and new Part adopted at 23 Ill. Reg. 3973, effective March 19, 1999; amended at 24 Ill. Reg. 74.94, effective May 11, 2000.

Section 300.10 Purpose

- a) This Grievance Procedure (Procedure) is established pursuant to the Americans With Disabilities Act of 1990, 42 USC 12101 et seq., and specifically 28 CFR 35.107, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities concerning program, program services or activities provided by DHS. This procedure also is established to resolve grievances pursuant to Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794) and Federal Rules. Should any individual desire to review the ADA or Section 504 or the its regulations to understand the rights, privileges and remedies afforded by it, the ADA/504 Coordinator shall provide such information.
- b) In general, the ADA requires that each program, service and activity offered by the Illinois Department of Human Services (DHS), when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities. Specifically, Title II of the ADA states that no otherwise qualified disabled individual shall solely by reason of such disability be excluded from participation in the benefits of or subjected to discrimination in programs, services,

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- c) or activities sponsored by the Department.
- Section 504 requires that no otherwise qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity that receives or benefits from federal financial assistance. Federal financial assistance means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the federal government provides or otherwise makes available assistance in the form of funds, services, or federal personnel or real or personal property.
- d) It is the intention of DHS to foster open communication with all individuals requesting readily accessible programs, services and activities. DHS encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

(Source: Amended at 24 Ill. Reg. 74 94, effective MM - b 7000)

Section 300.20 Definitions

- a) Complainant
- A "Complainant" is an individual with a disability who files a grievance form provided by DHS under this Procedure.
- b) ADA/504 Coordinator
- The "ADA/504 Coordinator" is the person designated by the DHS Secretary who is responsible for the coordination of efforts of DHS to comply with and carry out its responsibilities under Titles I and II of the ADA and Section 504, including investigation of grievances filed by complainants. The ADA/504 Coordinator may be contacted at:

DHS - ADA/504 Coordinator
Chief, Bureau of Accessibility & Workplace Safety
401 S. Clinton, 7th Floor
Chicago IL 60607

- c) Grievance
- A "Grievance" is any complaint under the ADA by an individual or individuals with a disability, or by an individual or entity who has a known relationship or association with an individual with a disability, who:
- 1) meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by DHS, and
 - 2) believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of DHS or has been subject to discrimination by DHS.

- d) "Disability"
- "Disability" means a physical or mental impairment that substantially

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limits one or more of the major life activities of an individual, record of such impairment, or being regarded as having such an impairment.

- e) Qualified individual with a Disability
- "Qualified individual with a Disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communications or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department.

(Source: Amended at 24 Ill. Reg. 74 94, effective MM - b 7000)

Section 300.30 Procedures

- a) DHS shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this Procedure and a grievance form.
- b) Grievances must be submitted through the process described below in the form and manner as described within the specified time limits. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this Procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement in writing by the Complainant and the ADA/504 Coordinator and Final Review by the Secretary.

- c) A Complainant's failure to submit or appeal a grievance to the next level of procedure within the specified time limits shall mean that the Complainant has withdrawn the grievance or has accepted the last response given in the grievance procedure as DHS' last response.

(Source: Amended at 24 Ill. Reg. 74 94, effective MM - b 7000)

Section 300.40 ADA/504 Coordinator Review

- a) If an individual desires to file a formal written grievance under this Part, the individual shall promptly, but no later than 30 days after the alleged discrimination, submit the grievance to the ADA/504 Coordinator in writing on the grievance form prescribed for that purpose. The grievance form must be completed in full in order to receive proper consideration by the ADA/504 Coordinator.

The grievance form shall include:

- 1) The Complainant's name, and if applicable, address and telephone number;
- 2) the best means and time for contacting the Complainant;
- 3) the program, activity or service that was denied Complainant or

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in which alleged discrimination occurred;

- 4) the date and nature of the alleged denial or discrimination;
 - 5) the signature of the Complainant, or his/her authorized designee.
- c) Upon request, assistance shall be provided by DHS to complete the grievance form.
- d) The ADA/504 Coordinator, or his/her representative, shall investigate the grievance and shall make reasonable efforts to resolve it. The ADA/504 Coordinator shall provide a written response to the Complainant within 45 business days after receipt of the grievance form.

(Source: Amended at 24 Ill. Reg. 7494 - 3, effective MAY 6 2000)

(Source: Amended at 24 Ill. Reg. 7494 - 3, effective MAY 6 2000)

Section 300.50 Secretary Review

- a) If after receipt of the ADA/504 Coordinator's written response the grievance has not been resolved at the ADA/504 Coordinator Level to the satisfaction of the Complainant, the Complainant may submit a copy of the grievance form ~~Grievance--Form~~ and ADA/504 Coordinator's response to the Secretary of DHS for final review. The Complainant shall submit these documents to the Secretary, together with a short written statement explaining the reason(s) for dissatisfaction with the ADA/504 Coordinator's written response, within 10 business days after receipt by the Complainant of the ADA/504 Coordinator's response.
- b) The Secretary shall appoint a person(s) to review the grievance.
- c) The Complainant shall be afforded an opportunity to appear before the Secretary's appointee. Complainant shall have the right to appoint a representative to appear on his/her behalf. The Secretary's appointee shall review the ADA/504 Coordinator's written response and may conduct interviews and seek advice as he/she deems appropriate.
- d) Within 45 days after receipt of the Complainant's written response, the appointee shall make recommendations in writing to the Secretary as to the proper resolution of the grievance. All recommendations shall include reasons for such recommendations. A dissenting appointee may make a recommendation to the Secretary in writing and shall also sign such recommendation.
- e) Within 45 days after receipt of recommendations from the appointee, the Secretary shall approve, disapprove or modify the recommendations, shall render a written decision stating the basis therefor, and shall cause a copy of the decision to be served on the parties. The Secretary's decision shall be final.

(Source: Amended at 24 Ill. Reg. 7494 - 3, effective MAY 6 2000)

A public notice shall be posted informing applicants, participants, beneficiaries and other interested persons of DHS' compliance with the Americans With Disabilities Act and, as appropriate, the provisions of Section 504 of the Rehabilitation Act as applicable to the services, programs, or activities of the Department.

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

- 2) Code Citation: 89 Ill. Adm. Code 686

- 3) Section Numbers: Adopted Action:

686.120 Amend

686.130 Amend

686.220 Amend

686.230 Amend

686.330 Amend

686.340 Amend

- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

- 5) Effective Date of Rulemaking: May 6, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: January 7, 2000, 24 Ill. Reg. 211

- 10) Has JCAR Issued a Statement of Objection to this rulemaking? No

- 11) Differences between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency amendment currently in effect?
No

- 14) Are there any amendments pending on this Part: No

- 15) Summary and Purpose of Amendments: This rulemaking amends this Part to alter the previous requirement of an annual review to a review at least every two years. This change will allow ORS to use staff more effectively to review and assist providers having difficulties. Other changes have been made to reflect DHS organization and titles.

- 16) Information and questions regarding this adopted amendment shall be

directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686

PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10 Personal Assistant (PA) Requirements
686.10 Services Which May Be Provided by a PA
686.20 Criminal Background Check
686.25 Annual Review of PA Performance
686.30 Payment for PA Services
686.40

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.10 Adult Day Care (ADC) Provider Requirements
686.110 Services Which Must Be Provided by ADC Providers
686.120 Annual Compliance Review of ADC Providers
686.130 Appeal of Compliance Review for ADC Providers
686.140 Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200 Homemaker Service Provider Requirements
686.210 Services Which Must Be Provided by Homemaker Agencies
686.220 Annual Compliance Review of Homemaker Agencies
686.230 Appeal of Compliance Review for Homemaker Agencies
686.240 Payment for Homemaker Services
686.250 Financial Reporting of Homemaker Services
686.260 Unallowable Costs for Homemaker Services
686.270 Minimum Direct Service Worker Costs for Homemaker Services
686.280 Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section
686.300 Electronic Home Response Services (EHRs) Provider Requirements
686.310 Services Which Must Be Provided by EHRs Providers
686.320 Minimum Specifications for EHRs Equipment
686.330 Annual Compliance Review of EHRs Providers
686.340 Appeal of Compliance Review for EHRs Providers
686.350 Rate of Payment for EHRs Services

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SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Case Management Provider Requirements, Qualifications, and Training
686.930 Provider Staffing Requirements, Qualifications, and Training
686.940 Monitoring and Liability of Provider
686.950 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities
686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager

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686.1030 Monitoring and Liability
686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

686.1100 Behavioral Services Provider Requirements
686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

686.1200 Day Habilitation Services Provider Requirements
686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

686.1300 Prevocational Services Provider Requirements
686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

686.1400 Supported Employment Service Provider Requirements
686.1410 Rate of Pay for Supported Employment Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 75 01 effective MAY 17 2000.

Section 686.120 Annual Compliance Review of ADC Providers

- a) DHS-ORS shall complete a ~~an~~-annual review of each Adult Day Care Provider, at least every two years, to ensure compliance with the criteria set forth in this Subpart.
- b) The annual review shall consist of an on-site review conducted by HSP staff using the Adult Day Care Review form (IL 488-2129). Written notification shall be provided to the Adult Day Care Provider prior to the review.
- c) Within 15 days of the completion of the review, a copy of the

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completed IL 488-2129, along with a letter stating the results of the review, shall be mailed to the Adult Day Care Provider.
If the Adult Day Care Provider is approved, included with the letter shall be an Adult Day Care Provider Rate Agreement for execution by the appropriate provider staff and return to DHS-ORS.
If the Adult Day Care Provider is not approved, the letter shall contain specific information regarding:

- 1) deficiencies found as a result of the review;
- 2) the action necessary for the ADC Provider to come into compliance;
- 3) the time frames within which the ADC Provider must come into compliance; and
- 4) the information necessary for the ADC Provider to request re-evaluation after the compliance issues are addressed.

(Source: Amended at 24 Ill. Reg. 75 01 effective MAY 17 2000)

Section 686.130 Appeal of Compliance Review for ADC Providers

- a) ADC Providers determined not to be in compliance with DHS-ORS requirements as a result of the review may appeal the decision to the Chief of the Bureau ~~Manager~~---~~Division~~ of Home Services. The Bureau Chief ~~Manager~~ shall conduct a review of the facts related to the rating and shall, within 15 working days, provide a written decision to the ADC Provider.

- b) If the ADC Provider is not satisfied with the decision of the Bureau Chief ~~Manager~~, the ADC Provider may request review of the Chief's ~~Manager's~~ decision by the DHS-ORS Associate Director. The request must be in writing from the ADC provider and received by the DHS-ORS Associate Director within 10 working days after of the date the decision was rendered by the Bureau Chief ~~Manager~~. The decision of the DHS-ORS Associate Director shall be final.

(Source: Amended at 24 Ill. Reg. 75 01 effective MAY 17 2000)

Section 686.220 Annual Compliance Review of Homemaker Agencies

- a) DHS-ORS shall conduct a compliance review of any Homemaker Agency seeking an approved rate agreement with DHS and, at least every two years, ~~annually~~ shall conduct a compliance review of all Homemaker Agencies that have current rate agreements with DHS-ORS for the purpose of determining compliance or continued compliance with the criteria set forth in this Subpart.
- b) DHS-ORS shall notify all Homemaker Agencies having current approved rate agreements, in writing, at least 10 working days prior to the date of the review to determine continued compliance.

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(Source: Amended at 24 Ill. Reg. 75 01 - 3 effective MAY - 6 2000)

Section 686.230 Appeal of Compliance Review for Homemaker Agencies

- a) Homemaker Agencies determined not to be in compliance with DHS-ORS requirements, as a result of the review, may appeal the decision to the Chief of the Bureau Manager---Division of Home Services. The Bureau Chief Manager shall conduct a review of the facts related to the rating and shall, within 15 working days, provide a written decision to the Homemaker Agency.
- b) If the Homemaker Agency is not satisfied with the decision of the Bureau Chief Manager, the Homemaker Agency may request review of the Bureau Chief Manager's decision by the DHS-ORS Associate Director. The request must be in writing and received by the DHS-ORS Associate Director within 10 working days after of the date the decision was rendered by the Bureau Chief Manager. The decision of the DHS-ORS Associate Director shall be final.

(Source: Amended at 24 Ill. Reg. 75 01 - 3, effective MAY - 6 2000)

Section 686.330 Annual Compliance Review of EHRs Providers

- a) DHS-ORS shall conduct a compliance review of any EHRs Provider seeking an approval from DHS-ORS and at least every two years annually shall conduct a review of all EHRs Providers that have current approval of DHS-ORS for the purpose of determining compliance or continued compliance with the criteria for approval set forth in this Subpart.
- b) DHS-ORS shall, when contacted by an EHRs Provider, or when notified by staff of the need to access the services of a specific EHRs Provider, conduct the review within a period of 60 calendar days.
- c) DHS-ORS shall notify all currently approved EHRs Providers, in writing, at least 10 working days prior to the date of the review to determine continued compliance.

(Source: Amended at 24 Ill. Reg. 75 01 - 3, effective MAY - 6 2000)

Section 686.340 Appeal of Compliance Review for EHRs Providers

- a) EHRs Providers determined not to be in compliance with DHS-ORS requirements as a result of the review may appeal the decision to the Chief of the Bureau Manager---Division of Home Services. The Bureau Chief Manager shall conduct a review of the facts related to the rating and shall, within 15 working days, provide a written decision to the EHRs Provider.
- b) If the EHRs Provider is not satisfied with the decision of the Bureau

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Chief Manager, the EHRs provider may request review of the Bureau Chief Manager's decision by the DHS-ORS Associate Director. The request must be in writing and received by the DHS-ORS Associate Director within 10 working days after of the date the decision was rendered by the Bureau Chief Manager. The decision of the DHS-ORS Associate Director shall be final.

(Source: Amended at 24 Ill. Reg. 75 01 - 3, effective MAY - 6 2000)

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- 1) **Heading of the Part:** WIC Vendor Management Code
- 2) **Code Citation:** 77 Ill. Adm. Code 672
- 3) **Section Numbers:** Adopted Action:
 672.100 Amendment
 672.105 Amendment
 672.200 Amendment
 672.210 Amendment
 672.215 Amendment
 672.220 Amendment
 672.225 Amendment
 672.420 Amendment
 672.425 Amendment
 672.450 Amendment
 672.460 Amendment
 672.505 Amendment
 672.510 Amendment
 672.515 Amendment
 672.600 Amendment
 672.610 Amendment
- 4) **Statutory Authority:** Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255]
- 5) **Effective Date of Amendments:** May 1, 2000
- 6) **Does this rulemaking contain an automatic repeal date?** No
- 7) **Do these amendments contain incorporations by reference?** No
- 8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**
- 9) **Notice of Proposal Published in Illinois Register:** February 4, 2000, 24 Ill. Reg. 1763
- 10) **Has JCAR Issued a Statement of Objection to these Amendments?** No
- 11) **Differences between proposal and final version:**
 In Section 672.100, in the definition "Education Visit", added "Visit" after "visit".
 In Section 672.100, in the definition "Women Infants and Children Nutrition Program", added "after" after "Women" in two places.

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- In Section 672.105 (b)(1), struck semicolon after "246" and added "and as published in 64 Fed. Reg. 13311, effective March 18, 1999", and added a semicolon at the end.
- In Section 672.220 (b), struck "the on site inspection", deleted "education", added "a" before "visit" and added "(See Section 672.210 (b)(2)(B))."
- In Section 672.220 (c), struck "inspect" and added "visit".
- In Section 672.505, expanded cite to read "(see 64 Fed. Reg. 13311, effective March 18, 1999)".
- In Section 672.505 (a)(3), deleted "this" before "violation" and added "a".
- In Section 672.505(a)(3)(B), deleted "an effective" before "policy" and added "a".
- In Section 672.505(1), changed "State agency" to "Department" except in any instance where "State Agency Sanction" was used.
- In Section 672.515 (b)(3), changed "his" designee to "his/her" designee in three places.
- In Section 672.610(1), struck " , effective December, 1989, and as amended".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) **Summary and Purpose of Amendment:** The WIC Vendor Management Code is being amended to incorporate changes as mandated by the amendment of the federal regulations for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)(7 CFR 246).
- 16) **Information and questions regarding these adopted amendments shall be directed to:** Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules
 Department of Human Services
 100 South Grand Avenue East, 3rd Floor (217) 785-9772
 Springfield, Illinois 62762

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TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER 1: MATERNAL AND CHILD HEALTH

PART 672

WIC VENDOR MANAGEMENT CODE

SUBPART A: GENERAL PROVISIONS

Section
672.100 Definitions
672.105 Incorporated and Referenced Materials
672.110 Purpose
672.115 Application of These Rules

SUBPART B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

Section
672.200 Geographic Distribution and Number of Vendors
672.205 Application Procedures
672.210 Authorization Criteria and Procedures
672.215 WIC Food List and Quantities
672.220 Criteria for Denial of Authorization
672.225 Denial of Authorization

SUBPART C: WIC VENDOR EDUCATION

Section
672.300 Initial WIC Retail Training by the Department
672.305 Initial WIC Retail Training by a Vendor
672.310 Annual WIC Retail Training Program
672.315 Compliance Training Workshop (Repealed)

SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

Section
672.400 Authorization
672.405 WIC Vendor Contract Requirement
672.410 Expiration of WIC Vendor Authorization and Contract
672.415 Food Instrument Processing
672.420 Specifications for Rejection of Food Instruments
672.425 WIC Retail Vendor Responsibilities
672.430 Payment Obligation
672.435 Conflict of Interest
672.440 Unlawful Discrimination
672.445 Amendments Resulting From a Change in Statute or Regulation
672.450 Assignment or Transfer
672.455 Civil Law Suits

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672.460 Voluntary Withdrawal from the WIC Vendor Contract
 672.465 Notices

SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section

672.500 Compliance Monitoring Inspections
 672.505 Federally Mandated Vendor Sanctions
 672.510 State Agency WIC Vendor Sanctions
 672.515 Vendor Rights Regarding Notice and Appeal Criteria for Termination or
 Suspension of Authorization, Prohibition, and/or Fine Assessment
 672.520 Breach of Contract
 672.525 Notice of Violation (Repealed)

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS

Section

672.600 Hearings
 672.605 Parties to Hearings (Repealed)
 672.610 Appearance and Representation of a Party
 672.615 Commencement of an Action (Repealed)
 672.620 Motions (Repealed)
 672.625 Discovery (Repealed)
 672.630 Form of Papers (Repealed)
 672.635 Service (Repealed)
 672.640 Pre-Hearing Conferences (Repealed)
 672.645 Conduct of Hearings (Repealed)
 672.650 Subpoenas (Repealed)
 672.655 Burden of Proof (Repealed)
 672.660 Administrative Law Judge's Report and Final Decision (Repealed)
 672.665 Records of Proceedings (Repealed)
 672.670 Miscellaneous (Repealed)

APPENDIX A Illinois Regional Map

AUTHORITY: Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255].

SOURCE: Adopted at 14 Ill. Reg. 19984, effective December 1, 1990; amended at 16 Ill. Reg. 17734, effective December 15, 1992; amended at 18 Ill. Reg. 2450, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 13125, effective August 12, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 606, effective January 9, 1995; amended at 19 Ill. Reg. 16086, effective November 20, 1995; amended at 21 Ill. Reg. 3960, effective March 15, 1997; recodified from the Department of Public Health to the Department of Human Services at 21 Ill. Reg. 5923; emergency amendment at 22 Ill. Reg. 3127, effective January 22, 1998, for a maximum of 150 days; emergency expired on

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June 20, 1998; amended at 22 Ill. Reg. 18960, effective October 1, 1998; emergency amendment at 23 Ill. Reg. 4553, effective April 2, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10843, effective August 23, 1999; amended at 24 Ill. Reg. 1509, effective May 1, 2000.

SUBPART A: GENERAL PROVISIONS

Section 672.100 Definitions

"Act" means the WIC Vendor Management Act [410 ILCS 255].

"Administrative Law Judge" means any person appointed by the Secretary to preside at an Administrative Hearing.

"Administrative Warning" means a written notice which describes the nature of a violation to the WIC Vendor and a request for correction of the violation.

"Applicant" means the individual, partnership, limited partnership, unincorporated association, limited liability company, or corporation applying to be a WIC Retail Vendor.

"Applicant's Composite--Food Package Cost" means an amount determined by first multiplying the quantity of each WIC Food item in the Composite Market Basket times the Applicant's lowest shelf price for each item as determined during the Retail Vendor Price Survey. These totals are then added together to determine the cost of all items in the Composite Market Basket. In determining the lowest shelf price for grocery, cheese and cereal, the Department will use the average of the lowest shelf prices of the two varieties which the Department has determined are the most frequently received varieties of that WIC Food item. If the Applicant has no supply of one or both of the most frequently received varieties, the Department will use the one or two varieties with the lowest shelf price. In determining the lowest shelf price for infant formula, the Department will use a weighted average of the lowest shelf prices for the WIC approved brandy, taking into account the percentage of each brand used by WIC Participants.

"Application" means the application forms and other required materials submitted by a Business Entity to notify the Department that the Business Entity desires to become a WIC Retail Vendor.

"Authorization" means the approval of an Applicant who has met the WIC Vendor criteria and possesses a properly executed, valid WIC Vendor Contract as a WIC Retail Vendor.

"Business Entity" means the retail business which an Applicant or authorized WIC Vendor operates at a particular Vendor Site.

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"Civil Money Penalty" means a penalty which may be imposed in lieu of sanction as set forth in this Part. Calculation of the civil money penalty (CMP) shall be based on a current formula provided in 7 CFR 246 of the Code of Federal Regulations.

"Composite-Market-Basket" means those quantities of WIC food items received by a statistically average WIC Participant over a one-month period.

"Contested-Cases" shall have the meaning described in Section 3-36 of the Illinois Administrative Procedure Act--15 ILCS 140/3-367.

"Corporate Officer" means the identity of the officer of a Corporation as set forth in its Articles of Incorporation as filed with the Secretary of State wherein such entity is incorporated.

"CSFP" means the Commodity Supplemental Food Program which is a Federal food assistance program through which the Department or its Representative provide U.S. Government commodities to low-income women, infants and children and eligible elderly.

"Department" means the Illinois Department of Human Services. (Section 3(a) of the Act)

"Department Estimated Cost" means estimated prices based on indicators including Wholesale prices for WIC foods and the self-reported Vendor prices on the Vendor Retail Price Survey, which are averaged and weighted by Store Type and Region.

"Department Representative" or "Representative of the Department" means an employee or authorized agent of the Department.

"Education Visit/Visit" means a survey of an applicant/Vendor site where the monitor and the designated store representative review the criteria for authorization as a retail WIC Vendor.

"Expired Food" means a WIC approved infant formula Food item available to WIC Participants on a shelf which exceeds the stamped date printed on the Food item labeled as one of the following: expiration date, best-by date, use-by date, or best when Purchased-by "use before" date, printed on the item.

"Fine" means an amount of money imposed as a penalty.

"Food Instrument" or "FI" means a negotiable voucher issued by a Local Agency that specifies the quantity, size and type of authorized foods available to a WIC Participant within a designated time period, which can subsequently be taken to a Vendor in exchange for the specified

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quantities of food.

"Food Voucher" means Food Instrument.

"Grocery Store" means a fixed and permanent retail store whose primary business is the sale of food.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Illinois WIC Retail Food Delivery System" means the system in which Participants obtain WIC foods by submitting a Food Voucher to a WIC Retail Vendor.

"Invalid Vendor" is a rejection label which means a Food Instrument deposited or mailed by a Vendor which has been encoded and rejected by the Department's contract bank for the following reasons: the Food Instrument has not been stamped with the Vendor Number, the Vendor Number is unauthorized, unreadable, not in the space indicated, or a counterfeit Vendor Stamp is used. Typed or handwritten numbers shall not be accepted.

"Limited Liability Company" means a company organized and existing under the Limited Liability Company Act [805 ILCS 180].

"Local Agency" means a public or private, non-profit health or human services agency which provides health services, either directly or through contract, in accordance with the USDA WIC Regulations, the Act, or this Part.

"Minimum Supply of WIC Foods" means the Department published list of the minimum required quantities, sizes, and types of WIC Foods which must be maintained in stock at all times by a Vendor.

"Participant" means authorized pregnant women, breastfeeding women, postpartum women, infants or children who are receiving supplemental foods or Food Instruments under the WIC Program.

"Participant Access" means the determination by the Department as to the availability of authorized Vendors within a geographic area.

"Participant-Requested-Delivery" means a Participant-requested delivery of WIC-approved foods from a Vendor to an address specified by the WIC Participant or Proxy.

"Participant/Vendor Ratio" means the total number of WIC Participants redeeming Food Instruments through WIC Retail Vendors in a given region divided by the total number of WIC Retail Vendors in the same region.

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"Pharmacy" means any store, shop, department, or other place, at a fixed and permanent location, having the capability to dispense and sell or offer for sale at retail value by a licensed pharmacist drugs, medicines, poisons, and liquid foods, prescribed for an individual by dentists, veterinarians, and physicians licensed to practice medicine in all its branches.

"Posted Shelf Price" means the clearly displayed price of WIC Foods charged to the general public, identifying the price of the specific WIC Food item. When no price is posted, the posted Shelf Price shall be deemed to be the average price for a particular food item based on the Retail Vendor Price Survey for stores of like size and location.

"Probation" means a period of time during which the Vendor will be under increased scrutiny by the Department.

"Proxy" means a person who is authorized by the Local Agency and the WIC Participant to accept and/or redeem Food Instruments on a Participant's behalf.

"Region" means a geographic area in the State of Illinois which is identified by specific boundaries determined by the Department. (See Section 672, Appendix A.)

"Regional-Average-Composite-Food-Package-Cost" means an amount determined by first multiplying the quantity of each WIC Food item in the Composite-Market Basket times the average regional shelf price for that item as derived from the Retail-Vendor-Price-Survey for that region, weighted to reflect the distribution of store types in the region, these totals are then added together to determine the regional average cost of all items in the Composite-Market Basket.

"Retail Vendor Price Survey" means the current prices, reported to the Department, by a Vendor or a Department Representative, as charges for WIC Foods.

"Secretary" means the Secretary of the Illinois Department of Human Services or designee.

"Store Type" means the classification of WIC Retail Vendors by the number of active customer check-out lanes/cash registers. One or two lanes is a type 1 Vendor Site. Three or four lanes is a type 2 Vendor Site. Five to seven lanes is type 3 Vendor Site. Eight or more lanes is a type 4 Vendor Site. A pharmacy is a type 5 Vendor Site and a WIC Food Center is a type 6 Vendor Site.

"USDA" means the United States Department of Agriculture.

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"USDA WIC Regulations" means the Regulations of the United States Department of Agriculture, Food and Consumer Service, Special Supplemental Nutrition Program for Women, Infants, and Children (7 CFR 246 (1999 1999)).

"Valid WIC Retail Vendor Contract" means a contract that is binding only between the Department and the officer, partner or sole proprietor who originally signed the Vendor Application and Vendor Contract.

"Vendor" or "WIC Retail Vendor" means the individual, partnership, limited partnership, unincorporated association, limited liability company, or corporation authorized by the Department to accept Food Instruments and to provide supplemental food to WIC Participants, Proxies of WIC Participants or Department Representatives.

"Vendor Number" means the number assigned to an authorized Vendor by the Department for validating Food Instruments.

"Vendor Site" means a fixed and permanent location, operating as a Business Entity, listed in the WIC Vendor Application, which has been authorized by the Department for purposes of delivery of WIC Foods to WIC Participants or the Proxy of a WIC Participant.

"Vendor Stamp" means the stamp provided to a Vendor by the Department for validating Food Instruments.

"Violation" means an infringement of Federal or State rules or statutes or local laws.

"WIC Food Centers" are WIC food distribution sites through which the Department or its Representative provide the direct distribution of WIC foods.

"WIC Food List" means the published list of the State of Illinois authorized WIC Foods.

"WIC Foods" means those competitively priced foods which have been placed on the WIC Food List, which have been determined by the Department to be nutritionally qualified for the WIC Program in the State of Illinois.

"WIC Participant Identification Card" means the card issued by a Local Agency to a Participant for purposes of the WIC Program.

"WIC Vendor Contract" means an agreement signed by the WIC Retail Vendor and the Department for the provision of WIC Foods to Participants, the Proxies of WIC Participants or Department

Representatives.

"Women, Infants and Children Nutrition Program" and "WIC" mean the Federal Special Supplemental Nutrition Program for Women, Infants, and Children authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 USC 6-5-6; 1786). (Section 3(a) of the Act)

(Source: Amended at 24 Ill. Reg. 75 09 effective MAY 1 1980)

Section 672.105 Incorporated and Referenced Materials

- a) The following State rules and statutes are referenced in various Sections of this Part:
- 1) The WIC Vendor Management Act [410 ILCS 255]
 - 2) The Illinois Purchasing Act [30 ILCS 505] (Sections 672.210(a)(5) and (7) and 672.435)
 - 3) Sections 33E-3 and 33E-4 of the Criminal Code of 1961 [720 ILCS 5/33E-3 and 33E-4] (Section 672.210(a)(10))
 - 4) Section 2-102 of the Illinois Human Rights Act [755 ILCS 5/2-102] (Section 672.440)
 - 5) **Rules-of-Practice-and-Procedure-in-Administrative-Hearings** [89 77 Ill. Adm. Code 508 186].
- b) The following federal regulations are incorporated in various Sections of this Part:
- 1) USDA WIC regulations - Special Supplemental Food Program for Women, Infants and Children? (7 CFR 246 and as published in 64 Fed. Reg. 13311, effective March 18, 1999);
 - 2) USDA nondiscrimination regulations - Nondiscrimination (7 CFR 15); Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance (7 CFR 15a); and Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance (7 CFR 15b) (Section 672.440).
- c) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.
- d) All citations to Federal regulations in this Part concern the specified regulation in the January 1998 1994 Code of Federal Regulations, unless another date is specified.
- e) Copies of all incorporated materials are available for inspection and duplication (at a fee in accordance with Section 1176.410 1176-414 of the Department's Freedom of Information Code (2 Ill. Adm. Code 1176 1176)) by the public at the Department's Central Office, Office of Family Health, Bureau of Family Nutrition Division--of--Health Assessment--and--Screening (535 West Jefferson, Springfield, Illinois 62761).

(Source: Amended at 24 Ill. Reg. 75 09 effective MAY 1 1980)

SUBPART B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

Section 672.200 Geographic Distribution and Number of Vendors

Prior to offering an application to a potential Applicant vendor, the Department shall utilize Participant/Vendor Ratios and shall consider Participant needs within geographical locations to determine if the Applicant meets the Regional Participant/Vendor Ratio to be eligible for selection. The Participant/Vendor Ratio shall be calculated for the geographic regions within the State of Illinois (see Appendix A) to determine the need for WIC Retail Vendors within such regions. Participant/Vendor Ratios for each of the nine regions--within-Illinois--shall-be--at--least--one--Region-one-through-six-shall-be-greater-than-40-11-40-but-shall-be-less-than-60-Regions-seven-and-eight-shall-be-greater-than-100-11-100-but-shall-be-less-than-160-Region-nine-shall-be-greater-than-145-11-145-but-less-than-175-

b) With the exception of a pharmacy, if an Applicant applies for--WIC-authorization--in--a--region--which--has--more--vendors--than--the--minimum-number-of-vendors--and--fewer--vendors--than--the--maximum-number-of-vendors--allowed--in--the--region--the--Applicant--shall--not--be--authorized--unless--the--Applicant--agrees--to--charge--the--Department--a--maximum--of--95%-or--less--of--the--maximum--value--of--the--Food-Instrument(s)--or--of--the--lowest--price--for--WIC--food--items--which-ever--is--less--and--agrees--not--to--exceed--this--95%-level--for--more--than--two--months--during--the--contract--period--of--Authorization--Vendors--authorized--under--this--provision--whose--charges--to--the--Department--exceed--95%-of--the--maximum--value--of--the--Food-Instrument(s)--or--the--lowest--shelf-price--for--WIC--food--items--which-ever--is--less--shall--be--placed--on--probation--for--the--duration--of--their--contract--period----in--addition--such--Vendors--shall--reimburse--the--Department--for--the--difference--between--the--amount--received--and--95%-or--less--of--the--maximum--value--of--the--Food-Instrument(s)--or--the--lowest--shelf-price--for--WIC--food--items--which-ever--is--less--if--the--Vendors--do--not--pay--this--reimbursement--within--30--calendar--days--from--the--date--they--are--notified--they--shall--be--subject--to--violations--specified--in--Section--672-505(a);

c) If a region has the minimum number of vendors--(see--Section--672-200(a))--an--Application--shall--not--be--offered--to--a--potential--Applicant--vendor--at--a--Vendor--Site--where--during--the--previous--three--years--a--Vendor--has--been--terminated--or--has--consented--to--withdraw--in-- lieu--of--termination--

d) If a region has exceeded the maximum number of vendors--(see--Section--672-200(a))--an--Application--shall--not--be--offered--

(Source: Amended at 24 Ill. Reg. 75 09 effective MAY 1 1980)

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Section 672.210 Authorization Criteria and Procedures

a) Only WIC Retail Vendors authorized by the Department shall be eligible to accept Food Instruments or otherwise provide supplemental foods to WIC Participants. Proxies or Department Representatives. Any Applicant seeking Authorization to become a WIC Retail Vendor has an obligation to meet the following criteria before Authorization. In addition, any authorized Vendor has a continuing obligation to meet the below listed criteria during the period of Authorization:

- 1) The Vendor Site shall be located within the boundary lines of the State of Illinois.
- 2) The Vendor Site shall have a fixed and permanent location. This site shall be the address indicated on the WIC Vendor Application and shall be the location where a WIC participant, Proxy or Department Representative shall select WIC Foods during business hours.
- 3) This site shall not be at an address or within any building where Food Instruments are distributed to WIC Participants.
- 4) The price charged to the WIC Program for WIC Foods provided through Participant Requested Delivery shall not exceed those prices charged to cash paying customers nor the prices posted at the Vendor Site. The Vendor shall not charge for delivery of WIC Foods.
- 5) Each Vendor Site listed in the Application shall have ~~seventy percent---~~ 70% or more gross receipts from the sale of non-alcoholic products.
- 6) Authorization to participate in the USDA Food Stamp Program or any other federal food program is not a prerequisite for Authorization as a WIC Retail Vendor. If, however, an Applicant or Vendor has been authorized to participate in the USDA Food Stamp Program or other federal food program, he shall not have been denied, suspended, disqualified, terminated, or assessed a civil money penalty during the ~~two--~~ 2+ years preceding Application for Authorization as a WIC Retail Vendor.
- 7) Neither the Applicant, Vendor, nor any officers or officials shall have been involved in bribery as prohibited under Section 10-1 of the Illinois Purchasing Act' (~~411r-Rev-Stat-1993-rh-127r-parr-13211-7~~ [30 ICS 505/11.1]).
- 8) The Applicant or approved Vendor shall be barred from receiving state contracts as a result of any default on any educational loans as that term is defined in the Educational Loan Default Act (~~411r-Rev-Stat-1993-rh-127r-parr-3550-et-seq~~ [5 ICS 383]).
- 9) Neither the Applicant, Vendor, nor his or her spouse or minor children, shall hold an elective office in the State of Illinois, a seat in the General Assembly, appointment or employment in any of the offices of State government during the period of any WIC Vendor Authorization as prohibited under Section 11.1 of the Illinois Purchasing Act.

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- 8) Neither the Applicant, Vendor, its officers, directors, individual partners, nor their spouses or minor children who owns more than ~~seven-and-one-half-percent--~~ 7 1/2% ownership or beneficial interest in the Business Entity seeking Authorization to participate in the WIC Program shall be employed by the WIC Program of a local Agency.
- 9) Neither the Applicant, nor the Vendor shall have been convicted of a misdemeanor involving fraud, misuse or theft of State or Federal funds or of any felony. A certified copy of conviction may be offered and admitted into evidence as proof of such conviction.
- 10) The Applicant or Vendor shall be barred from bidding on or entering into a WIC Vendor Contract as a result of a violation of Sections 33E-3 or 33E-4 of the Criminal Code of 1961.
- 11) Neither the Applicant, Vendor, nor any owner of ~~thirty-percent--~~ 30% or more ownership shall have been terminated or disqualified from the WIC Program in the previous ~~three--~~ 3+ years.
- 12) The Applicant or Vendor shall adhere to the provisions of the USDA WIC Regulations, the Act, and this Part.
- 13) With the exception of a Pharmacy, if the Applicant is a current or former Vendor, the Applicant's charges to the WIC Program as a percentage of the Department Estimated Cost may be ranked against other current or former Vendor Applicants and may be used as an Authorization criteria in order to meet the minimum number of Vendors needed in a region (Section 672.200) (7 CFR Part 246.12(e)(2)).
- b) Applicants shall be authorized as WIC Retail Vendors based upon the following:
 - 1) An Application and all supporting documents shall be properly completed and verified by the Department. No Application shall be deemed complete unless it includes all necessary supporting documents required by this Part.
 - 2) The Applicant's proposed Vendor Site shall be visited inspected by the Department.
 - a) The Department shall conduct an education visit inspection of the proposed Vendor Site after receipt of a completed Application. Such a visit inspection shall determine whether the Applicant has the minimum quantities, sizes, and types of WIC Foods and shall verify any business or financial information submitted by the Applicant. Food products originating from WIC Food Centers or GSPR shall not be counted towards the minimum quantities, sizes, and types of WIC Foods Foods.
 - b) If the education visit inspection by the Department discloses that the Applicant's proposed Vendor Site does not have the minimum quantities, sizes, and types of WIC Foods necessary or that business or financial information supplied by the Applicant is erroneous, inaccurate or insufficient, a

- second visit shall be scheduled. If the second visit does not meet the requirements as stated above, the Application shall be denied.
- 3) The minimum quantities, sizes, and types of WIC Foods necessary at a Vendor Site are those specified in the WIC Vendor Contract. A copy of this list shall be provided to each Applicant and authorized Vendor.
- 4) ~~The Department shall complete a Retail Vendor Price Survey of WIC Foods during the inspection by collecting the lowest posted shelf prices for WIC Foods. If the Applicant's Composite Food Package Cost exceeds the Regional Average Composite Food Package Cost by five percent (5%) or more, the Application shall be denied unless the Applicant is a pharmacy or drug store when only redeemable food instruments for infant packages.~~
- 45) The Applicant shall be notified by the Department, within thirty (30) calendar days, whether or not the visit inspection of the proposed Vendor Site, the business, the financial, or other information provided by the Applicant meets the criteria set forth in this Part. If the Applicant meets such criteria, he shall be notified in writing of approval to attend the initial Retail Vendor training course or of his eligibility for an initial Retail Vendor training course waiver. (See Section 672.300.)

(Source: Amended at 24 Ill. Reg. 7508 effective MAY 1 2000)

Section 672.215 WIC Food List and Quantities

- a) Foods which qualify for delivery to WIC Participants shall be determined by the Department in accordance with 7 CFR 246.10 and placed upon a list which shall be made public. This list shall be printed and distributed at least once each year with the effective date of implementation printed on the face of the list. Changes made to the WIC Food List by the Department including addition and deletion of eligible foods, shall be distributed to all Local Agencies, eligible Participants and WIC Vendors prior to implementation. If a Vendor intends to utilize a WIC Food List which differs in form from the WIC Food List distributed by the Department, such use shall require prior approval of the Department. To obtain such approval the Vendor shall submit a request for such use in writing to the Department and shall include a copy of the food list it intends to use. If the Department shall review the food list submitted and inform the Vendor whether it shall approve or disapprove of the use of such list based upon the current Department list and 7 CFR 246.10, disapproval of such a request shall not give rise to any right of administrative appeal.

- b) The Vendor is allowed to offer a food item from the WIC Food List which is the same quantity and the same or lesser price as on the WIC Food List or Food Instrument, but is a higher grade or in a different size container.
- c) Minimum required quantities as specified in the WIC Vendor Contract are as follows:
- 1) All Vendors in the City of Chicago shall maintain sufficient quantities to provide food for ~~three (3)~~ infants, ~~three (3)~~ children, and ~~three (3)~~ women.
 - 2) All Vendors outside of the City of Chicago shall maintain sufficient quantities to provide food for ~~two (2)~~ infants, ~~two (2)~~ children, and ~~two (2)~~ women.

(Source: Amended at 24 Ill. Reg. 7500 effective MAY 1 2000)

Section 672.220 Criteria for Denial of Authorization

A determination by the Secretary to deny Authorization shall be based upon a finding that ~~one (1)~~ or more of the following criteria are met:

- a) The Applicant has not met the requirements of the USDA WIC Regulations, the Act, or this Part.
- b) The Applicant has submitted false, erroneous, or inaccurate information on the Application, or in the business or financial information provided to the Department or during the course of a the visit on-site inspection of the proposed Vendor Site (See Section 672.210 (b)(2)(B)).
- c) The Applicant has refused to allow the Department access to visit/inspect the proposed Vendor Site during the Applicant's normal business hours.
- d) The Applicant has submitted a FEIN or Social Security number for the Business Entity to be operated at the proposed Vendor Site which is not the same FEIN or Social Security number filed for the same Business Entity with the USDA Food Stamp program and/or with the Illinois Department of Revenue.
- e) The Applicant does not have the necessary local, municipal, or village license to operate as a Business Entity at the proposed Vendor Site.
- f) With the exception of pharmacies the Applicant has previously been authorized as a WIC Vendor and the Applicant's charges as a Vendor for WIC Foods for a minimum of three (3) months during the contract period were:
 - i) more than the Department Estimated Costs for those WIC Foods as reflected in the Vendor Price Survey; or
 - 2) at least 50 or greater than the average charges submitted by other Vendors of the same Store type in the same geographic region;
- g) The Applicant has previously been authorized as a WIC Vendor and the Applicant had more than 10 per month of all Food Instruments submitted

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to-the-contract-bank-rejected-for-a-maximum-of-three-(3)-months-during-a-contract-period:

fh) The USDA Food Stamp Program has imposed against the Applicant any of the following sanctions:

- 1) civil money penalty;
- 2) suspension;
- 3) disqualification;
- 4) permanent disqualification.

gf) Failure to pay any fine or reimbursement within the time specified by the Department.

(Source: Amended at 24 Ill. Reg. 7509, effective MAY - 1 2000)

Section 672.225 Denial of Authorization

a) Application for Authorization as a WIC Retail Vendor shall be denied when the Secretary finds that an Applicant meets any of the criteria set forth in Section 672.220.

b) When the Secretary determines that the Application for Authorization as a WIC Retail Vendor is to be denied, the Department shall notify the Applicant. The notice to the Applicant shall be in writing and shall include:

- 1) A clear and concise statement of the basis for denial. The statement shall include a citation to the USDA WIC Regulations, the Act, or the provisions of this Part for which the Application is being denied.
- 2) A description of the right of the Applicant to appeal the denial of the Application within fifteen-(15) calendar days after receipt of the letter and the right to a hearing pursuant to Section 672.600.
- 3) A statement that the Applicant may not reapply again for a minimum one-hundred-eighty-(180) calendar days from the date of the notice.

(Source: Amended at 24 Ill. Reg. 7509, effective MAY - 1 2000)

SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

Section 672.420 Specifications for Rejection of Food Instruments

a) Food Instruments shall be rejected for payment for the following reasons:

- 1) Submission of a Food Instrument before the "First Day To Use".
- 2) Submission of a Food Instrument for payment more than sixty-(60) calendar days past the "First Day To Use".
- 3) Submission of a Food Instrument identified by the Department or

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the Department's contract bank as Invalid Vendor.

4) Submission of a Food Instrument by an unauthorized Vendor, or submission of a Food Instrument which has an unauthorized, inaccurate, or missing Vendor Number.

5) Submission of a Food Instrument without a Participant or Proxy signature.

6) Submission of a Food Instrument whose value is greater than the maximum value amount printed on the Food Instrument.

7) Submission of a Food Instrument which has been altered.

8) Submission of a Food Instrument which has been fraudulently created.

9) Submission of a Food Instrument after knowledge that the contract has been repudiated or the Vendor disqualified **notice---that---a material-breach-of-contract-has-occurred-(Section-672-550)**.

10) Submission of a Food Instrument accepted after the term of the contract expires.

b) The following Food Instruments presented to the Department's contract bank shall not be paid:

- 1) Food Instruments without the Participant's signature;
- 2) Food Instruments with a missing, inaccurate, or Invalid Vendor Number;
- 3) Food Instruments submitted for payment before the "First Day to Use."

4) Food Instruments that have been altered;

5) Food Instruments that are over the maximum value; **or**

6) Food Instruments that have not been obligated by the local agency (stolen stock); **or -**

7) Food Instruments that have been submitted on or after the scheduled date of disqualification or termination.

c) Any Food Instrument that was accepted at the Vendor Retail Site and not submitted for processing through the contract bank shall not be considered for payment.

d) Appeal procedures for Food Instruments rejected as "Invalid Vendor" and "Amount Invalid" are stated below:

- 1) The Vendor shall have the option to restamp the Food Instruments which were rejected for "Invalid Vendor". The corrected Food Instrument(s) may be resubmitted according to the instructions described in Section 672.415(g) and (h).
- 2) The Vendor shall have the option to correct the "Actual \$ Amount of Sale" on the Food Instruments rejected for "Amount Invalid".

The corrected Food Instrument(s) may be resubmitted according to the instructions in Section 672.415(g) and (h).

d) **Excessive-rejection-of-food-instruments-shall-be-grounds-for-denial-of-authorization-of-the-vendor-s-contract-as-cited-in-Section-672-228(f)-**

(Source: Amended at 24 Ill. Reg. 7509, effective MAY - 1 2000)

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Section 672.425 WIC Retail Vendor Responsibilities

- a) The Vendor shall monitor the WIC Foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food specified on the Food Instrument. Pharmacies or drug stores which only redeem Food Instruments for infant packages, i.e., infant formula, infant cereal, and infant juice, shall be exempt from the minimum stock requirements of those foods which are not in the infant package. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within ~~twenty-four~~ 24 hours.
- b) The Vendor shall accept Food Instruments only within the time limits indicated on the Food Instruments and shall not receive payment for Food Instruments submitted before the "First Day to Use" or after the "Last Day to Use".
- c) The Vendor shall be responsible for payment and replacement of a lost, stolen or destroyed Vendor Number Stamp.
- d) The Vendor shall display the price of WIC Foods, charged to the general public, in clear view of customers, identifying the price of the specific WIC Food item.
- e) The Vendor shall provide WIC Foods to Participants, Proxies or Department Representatives at the same price or less than the price charged to non-WIC customers.
- f) The Vendor shall accept Food Instruments only from WIC Participants, Proxies or Representatives of the Department who present a WIC Participant Identification Card.
- g) The Vendor shall not issue a WIC Participant, Proxy or Department Representative any document (e.g., rain check) purporting to give the WIC Participant, Proxy or Department Representative the right to buy a WIC Food item or non-WIC Food item after the Food Instrument is signed by the Participant, Proxy or Department Representative. The Vendor shall not exchange any WIC Food item under any circumstances.
- h) The Vendor shall charge the Department sale prices. The value of coupons and discounts shall be deducted from the price charged to the Department. The Participant, Proxy or Department Representative shall not be given cash for the difference.
- i) The Vendor shall participate participant in an annual WIC training program as specified in Section 672.310.
- j) The Vendor shall be responsible for all Food Instruments accepted and processed for payment by current and former employees at the Vendor Site. The Vendor shall also be responsible for the accuracy of any information submitted to the Department by such employees. The Vendor shall be responsible for reviewing Food Instruments which have been accepted to make certain that the total cost does not exceed the posted shelf prices or the prices charged to non-WIC customers.
- k) The Vendor shall abide by the USDA WIC Regulations, the Act, and this Part.
- l) The Vendor and his Business Entity shall be subject to review by the

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Department or USDA for the time period covering any present or previous Authorization. Documents to be maintained by the Vendor shall include but not be limited to:

- 1) Original purchase order, including purchase order date; and
- 2) Original vendor invoices, showing date, showing date received, revealing description of item(s) received, showing vendor model or item number, listing stock keeping unit identification number of item received (if different than the vendor unit ID number), listing quantity received by item, identifying item unit costs, furnishing item cost extension (item cost multiplied by item quantity received), and showing initials of employee receiving and counting inventory on behalf of store.

The Vendor shall maintain all records of purchases, gross sales receipts, and invoices of all WIC and non-WIC Foods for a period not less than ~~three~~ 3 years. The original of such records shall be made available to the Department or USDA upon reasonable request. The Vendor shall also provide the Department and USDA the opportunity to inspect all Food Instruments located at the Vendor Site or under the control of the Vendor.

- m) The Vendor shall respond truthfully and accurately to Department initiated requests for Retail Vendor Price Surveys, verification of ownership of the Business Entity or Vendor Site, proof of WIC and non-WIC purchases and sales, and proof of the volume of alcoholic beverage sales. Such responses shall be in writing and be provided within ~~fifteen~~ 15 calendar days after of receipt of the Department's request.
- n) The Vendor shall maintain all refrigerated areas at temperature of ~~forty-degrees Fahrenheit~~ 40° F or below.
- o) The Vendor shall not exchange Food Instruments for any form of currency, or other items of value, nor provide the Participant, Proxy or Department Representative with any amount of currency or coin as change from a partial WIC Food transaction.
- p) The Vendor shall not seek restitution from WIC Participants, Proxies or Department Representatives for Food Instruments not paid by the Department or fines levied by the Department, a financial institution or the Department's contract bank. The Vendor shall not seek or receive restitution from the Department for monetary penalties for rejected Food Instruments.
- q) The Vendor shall not charge sales taxes for WIC Foods, as the Department is exempt from such tax under tax number ~~E9584-0387-03~~ B9944-t092-01.
- r) The Vendor shall reimburse the Department for any Food Instruments redeemed in violation of the USDA WIC Regulations, the Act, this Part or the WIC Vendor Contract.
- s) Neither Authorization as a WIC Vendor nor the WIC Vendor Contract constitutes employment between the Vendor and the Department as a State employee or provides eligibility for any employee benefits provided by the State of Illinois.

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- t) The Vendor shall offer the same courtesies to WIC Participants, Proxies or Department Representatives as offered to other customers.
- u) When material information included in the Vendor's Application changes, the Vendor, by Certified Mail, shall notify the Department in writing, within ~~thirty~~ 30 calendar days.
- v) The Vendor shall not deny a Participant, Proxy or Department Representative any WIC Foods indicated on the Food Instrument which the Vendor has in stock.
- w) Neither the Vendor, nor his employee, shall require that a Participant, Proxy or Department Representative exchange their selection of WIC Foods because the WIC Foods selected exceed the maximum value of the Food Instrument. Nor shall the Vendor request or accept any remuneration for the difference between the Participant selected WIC Foods and the maximum value of the Food Instrument.
- x) The Vendor shall allow WIC Participants, Proxies or Department Representatives freedom to select any WIC Foods in stock at the Vendor Site.
- y) The Vendor shall not maintain in shelf stock any WIC Foods which meet the definition of "Expired Food". (See Section 672.100.)
- z) The Vendor shall not accept for payment or credit an unsigned Food Instrument.

(Source: Amended at 24 Ill. Reg. 75 09, effective ~~MAY -1 2000~~)

Section 672.450 Assignment or Transfer

- a) The Vendor shall not sell, assign, or transfer in any manner its Authorization, the WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number. Any actual or attempted sale, assignment or transfer of the Authorization, WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number shall be a material breach of the WIC Vendor Contract.
- b) It shall also be a material breach of the WIC Vendor Contract if any unauthorized individual, corporation, partnership, limited partnership, unincorporated association, Limited Liability Company, or former Vendor improperly acquires WIC Authorization after the death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, unincorporated association, limited liability company, or firm, and shall subject the Vendor to disqualification from ~~termination-of-its~~ Authorization, ~~repudiation of its contract~~ and a fine assessment in accordance with Sections 672.510-672.515 and 672.520 of this Part.
- In addition, any assignee, transferee, buyer, or recipient of a Vendor's Authorization, WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number shall be in violation of this Part and shall be subject to the same sanctions ~~set forth in Section 672.540(c) of this Part.~~
- c) At least 15 calendar days in advance, the Vendor shall notify the Department of any scheduled sale, lease, bankruptcy or cessation of

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the Vendor's Business Entity, or of any sale of a majority interest in the Vendor's Corporation, partnership, sole proprietorship, or business Entity. Such notification shall be sent by certified mail and in writing to the place and address listed in the WIC Vendor Contract, Section XVI, Notices.

(Source: Amended at 24 Ill. Reg. 75 09, effective ~~MAY -1 2000~~)

Section 672.460 Voluntary Withdrawal from the WIC Vendor Contract

A Vendor may voluntarily withdraw from participation in the WIC Retail Vendor program with approval of the Department; however, the Department shall not accept voluntary withdrawal as an alternative to disqualification, contract repudiation or sanctions for violations of this Part. A request for such withdrawal shall be made in writing by the Vendor and sent to the Department at least ~~fifteen~~ 15 calendar days in advance of the desired date of withdrawal. If, at the time of the requested withdrawal, the Vendor owes a fine assessment or any other monies resulting from violation of this Part, such penalty and other monies due shall be paid in full prior to withdrawal from the WIC Retail Vendor program. Any voluntary withdrawal shall be for a period of not less than two (2) years.

(Source: Amended at 24 Ill. Reg. 75 09, effective ~~MAY -1 2000~~)

SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section 672.505 Federally Mandated Vendor Sanctions Violations

Vendors shall receive the following sanctions for the following violations as mandated by 7 CFR 246 (see 64 Fed. Reg. 13311, effective March 18, 1999):

- a) Permanent disqualification:
- The Department shall permanently disqualify a Vendor convicted of:
 - Trafficking in food instruments, or
 - Selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 USC 802), in exchange for Food Instruments.
 - A Vendor shall not be entitled to receive any compensation for revenues lost as a result of such violation.
 - The Department shall impose a civil money penalty in lieu of a disqualification for a violation when it determines, in its sole discretion, and documents that:
 - Disqualification of the Vendor would result in inadequate Participant Access; or
 - The Vendor had, at the time of the violation, a policy and

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program in effect to prevent trafficking; and the ownership of the Vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

b) Six year disqualification:

The Department shall disqualify a Vendor for six years for:

- 1) One incident of buying or selling Food Instruments for cash (trafficking); or
- 2) One incident of selling firearms, ammunition, explosives or controlled substances as defined in 21 USC 802, in exchange for Food Instruments.

c) Three year disqualification:

The Department shall disqualify a Vendor for three years for:

- 1) One incident of the sale of alcohol or alcoholic beverages or tobacco products in exchange for Food Instruments;
- 2) A pattern of claiming reimbursement for the sale of an amount of specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specified period of time;
- 3) A pattern of charging WIC Participants more for supplemental food than non-WIC customers or charging Participants more than the current shelf or contract price;
- 4) A pattern of receiving, transacting and/or redeeming Food Instruments outside of authorized channels, including the use of an unauthorized Vendor and/or unauthorized person;
- 5) A pattern of charging for supplemental food not received by the Participant; or
- 6) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 USC 82, in exchange for Food Instruments.

d) One year disqualification:

The Department shall disqualify a Vendor for one year for a pattern of providing unauthorized food items in exchange for Food Instruments, including charging for supplemental food provided in excess of those listed on the Food Instrument.

e) Second sanction:

When a Vendor, who previously has been assessed a sanction for any of the violations in subsections (b) through (d) of this Section, receives another sanction for any of these violations, the Department shall double the second sanction.

f) Third or subsequent sanction:

When a Vendor, who previously has been assessed two or more sanctions for violations in subsections (b) through (d) of this Section, receives another sanction for such violations, the Department shall double the third sanction and all subsequent sanctions for such violations.

g) Disqualification based on a Food Stamp Program disqualification:

The Department shall disqualify a Vendor who has been disqualified

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from the Food Stamp Program. The disqualification shall be for the same length of time as the Food Stamp Program disqualification, may begin at a later date than the Food Stamp Program disqualification, and shall not be subject to administrative or judicial review under the WIC program.

h) Voluntary withdrawal or non-renewal agreement:

The Department shall not accept voluntary withdrawal of the Vendor from the Program as an alternative to disqualification for the above-listed violations of this Section, but shall enter the disqualification on the record. In addition, the Department shall not use non-renewal of the Vendor agreement as an alternative to disqualification.

i) Participant Access determinations:

- 1) Prior to disqualifying a Vendor for a violation of subsections (b) through (d) or (g), the Department shall determine if disqualification of the Vendor would result in inadequate Participant Access.

- 2) When making Participant Access determinations, the Department shall consider, at a minimum, the availability of other authorized Vendors within the same area as the violating Vendor and any geographical barriers to using such Vendors.

j) Civil money penalty:

- 1) The Department may impose a civil money penalty in lieu of disqualification for violations in subsections (b) through (d) or (g) if the Department, in its sole discretion and documentation determines that disqualification of the Vendor would result in inadequate Participant Access.

- 2) If a civil money penalty is imposed in lieu of disqualification it shall be calculated for each violation subject to sanction under this Section, using the formula set forth in 7 CFR 246.12(k)(1)(x).

- 3) If a Vendor does not pay, or only partially pays, the penalty, the Department shall disqualify the Vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed [for a period corresponding to the most serious violation in cases where the federally mandated sanction includes the imposition of multiple civil money penalties as a result of a single investigation].

- 4) Civil money penalties may be doubled for second sanctions under this Section up to the limits set forth in 7 CFR 246.12(k)(1)(x). Civil money penalties may not be imposed in lieu of disqualification for third or subsequent violations under this Section.

k) Notification to Federal Food and Nutrition Service:

The Department shall provide the appropriate FNS office with a copy of the notice of administrative action, and information on Vendors it has disqualified or on whom it has imposed a civil money penalty in lieu of disqualification for any of the violations of this Section, within

DEPARTMENT OF HUMAN SERVICES

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15 days after the vendor's opportunity to file for a WIC administrative review has expired or all the Vendor's WIC administrative reviews have been completed.

1.) Multiple violations during a single investigation:

When during the course of a single investigation the Department determines a Vendor has committed multiple violations (which may include violations subject to State agency sanctions), the Department shall disqualify the Vendor for the period corresponding to the most serious federally mandated violation. However, the Department shall include all violations in the notice of administrative action. If a federally mandated sanction is not upheld on appeal, then the Department may impose a State agency-established sanction.

Violations--shall be classified as--either--Class--A--Violations--Class--B Violations--or--Class--C--Violations--Each--Class--of--violation--is--listed--below:

a) Class-A-Violations:

1) Imposition of any of the following sanctions by the USDA Food Stamp Program:

A) Civil-money penalty

B) Suspension

C) Disqualification

B) Permanent disqualification:

2) Exchanging cash for food instrument(s);

3) Exchanging non-food items for food instrument(s);

4) Charging WIC participants proxies or Department--Representatives more for WIC Foods than non-WIC customers;

5) Charging the WIC Program for WIC Foods not received by the Participant proxy or Department Representative;

6) Claiming reimbursement for the sale of any amount of WIC Food which exceeds the store's documented inventory of that food for a specified period of time;

7) Submitting false, erroneous or inaccurate information on the application or WIC Retail Vendor Contract;

8) Exchanging credit for WIC Food instrument(s);

9) Exchanging alcohol for WIC Food instrument(s);

10) Receiving WIC Food instrument(s) from any source other than a Participant, a proxy or a Representative of the Department;

11) Transacting WIC Food instrument(s) from any source other than a Participant, a proxy or a Representative of the Department;

12) Redeeming WIC Food instrument(s) which have been received from any source other than a Participant, a proxy or a Representative of the Department;

13) Charging WIC Participants Proxies or Department--Representatives more than the Posted Shelf Price for WIC Food items;

14) Charging the WIC Program for WIC Foods provided in excess of those listed on the WIC Food instrument(s);

15) Failure to maintain the minimum required quantity, size and type foods in at least three WIC Foods as identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract;

Supply of WIC Foods and specified in the WIC Vendor Contract;

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(See definition of--Minimum Supply of--WIC Foods--in Section 672.100.)

16) Submission of false, erroneous or inaccurate information in the business or financial information provided to the Department on the Retail Vendor Price Survey or during the course of inspections of the Vendor Site;

17) Refusing to allow the Department access to inspect the Vendor Site during normal business hours;

18) Submission of a Federal Employer Identification Number (FEIN) for the Business Entity operating as a Vendor which differs from the FEIN filed for the same Business Entity with the USDA Food Stamp Program or with the Illinois Department of Revenue;

19) Failure to fulfill the terms of the WIC Vendor Contract;

20) The sale, lease, assignment, transfer or discontinuation of the Business Entity or moving the Business Entity to a new location or new address without notice to and approval of the Department;

21) Use of WIC Authorization by any unauthorized individual corporation, partnership, limited partnership, unincorporated association, limited liability company or former vendor who has improperly acquired WIC Authorization after the death of a vendor (if an individual) or the voluntary or involuntary dissolution of a vendor corporation, partnership, limited partnership, limited liability company and unincorporated association;

22) Failure to pay the Department the amount of any reimbursement due pursuant to Section 672.200(b);

b) Class-B Violations:

1) Substitution of unauthorized foods not specified on the Food Instruments or WIC Food List;

2) Failure to maintain the minimum required quantity, size and type of WIC infant formula as identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract; (See the Definition of Minimum Supply of WIC Foods in Section 672.100.)

3) Requiring a Participant to select a different type or brand of WIC Foods when not specified on the Food instrument;

4) Altering or submitting for payment altered Food Instruments;

5) Accepting any remuneration for the difference between the maximum value of the Food instrument and the shelf price of the WIC Foods;

6) Having any expired WIC Foods on the shelf; (See Section 672.100 "Expired Food.")

7) Refusing to allow Participants Proxies or Department Representatives to take all food items listed on the Food instrument;

8) Not posting the shelf price for WIC Foods; If no price is posted then for purposes of this Section the Posted Shelf Price shall be deemed to be the average price for a particular food based on the Retail Vendor Price Surveys performed pursuant to

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- this Party for stores of like size and location;
- 9) The possession, the display on the shelf in the Vendor site, the attempted sale or actual sale of food products which originated from the WIC Food Centers or the Commodity Supplemental Food Program (CSFP);
- 10) Acceptance of WIC Food Instrument(s) that is signed by a Participant, a Proxy or a Department Representative before the total actual cost is filled in by the Vendor;
- c) ~~Class C Violations:~~
- 1) ~~Exchanging cash or credit for Food Instruments without a valid WIC Retail Vendor Contract;~~
- 2) ~~Exchanging alcoholic beverages for food or non-food items for WIC Food Instruments without a valid WIC Retail Vendor Contract;~~
- 3) ~~Exchanging WIC Food Instruments for cash, credit or favors without a valid WIC Retail Contract;~~

(Source: Amended at 24 Ill. Reg. 7509, effective MAY 1 2000)

Section 672.510 State Agency WIC Vendor Sanctions

- a) State Major Violations
- State major violations are violations which, in the determination of the Department, could result in harm to WIC Participants or the WIC Program. The following shall be considered major violations.
- 1) Failure to maintain the minimum required quantity, size and type of foods in at least three WIC Foods identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract. (See definition of "Minimum Supply of WIC Foods" in Section 672.100.)
- 2) Any violation of Section 672.450.
- 3) Accepting any remuneration for the difference between the maximum value of the Food Instrument and the shelf price of the WIC Foods.
- 4) Having an expired WIC Food(s) on the shelf. (See Section 672.100 "Expired Food".)
- 5) Submission of a Federal Employers Identification Number (FEIN) for the business entity operating as a Vendor which differs from the FEIN filed for the same business entity with the USDA Food Stamp Program or with the Illinois Department of Revenue.
- 6) Submission of false, erroneous or inaccurate information in the business or financial information provided to the Department, on the Retail Vendor price Survey, or during the course of inspections of the Vendor Site.
- 7) Refusing to allow the Department access to investigate the Vendor site during normal business hours.
- 8) Violation of a term of the WIC Vendor Contract.
- 9) Use of WIC Authorization by an unauthorized individual.

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- corporation, partnership, limited partnership, unincorporated association, Limited Liability Company or former Vendor (if an individual), or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, Limited Liability Company or unincorporated association.
- 10) Failure to pay the Department the amount of any reimbursement or fine due.
- 11) Submitting false, erroneous or inaccurate information on the application of a WIC Retail Vendor Contract.
- 12) Violation of the WIC Vendor Management Act or this Part, or of the federal statutes and regulations regarding the WIC Vendor program.
- 13) Charging WIC customers more for food than non-WIC customers or charging more than the current shelf or contract price.
- 14) Receiving, transacting and/or redeeming Food Instruments outside of authorized channels, including the use of an unauthorized Vendor and/or unauthorized person.
- 15) Charging for supplemental food not received by the participant.
- 16) Providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 USC 82, in exchange for Food Instruments.
- 17) Providing unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the Food Instrument.
- b) State Minor Violations:
- State minor violations are violations which are administrative in nature and may impose less harm to Participants or the program. The following shall be considered minor violations.
- 1) Failure to maintain the minimum required quantity, size and type of WIC Infant formula as identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract. (See definition of "Minimum Supply of WIC Foods" in Section 672.100.)
- 2) Requiring a Participant to select a different type or brand of WIC Foods when not specified on the Food Instrument.
- 3) Altering or submitting for payment altered Food Instruments.
- 4) The possession, the display on the shelf in the Vendor Site, the attempted sale or actual sale of food products which originated from the WIC Food Centers or the Commodity Supplemental Food Program.
- 5) Acceptance of WIC Food Instrument(s) that is signed by a Participant, a Proxy or a Department Representative before the total actual cost is filled in by the Vendor.
- 6) Not posting the shelf price for WIC Foods, if no price is posted, then for the purposes of this Section, the Posted Shelf Price shall be deemed to be the average price for a particular food based on the Retail Vendor Price Surveys performed pursuant to this Part, for stores of like size and location.

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c) Sanctions:

- 1) For each major violation a Vendor shall receive:
 - A) A fine assessment of \$1000 or 10% of the Vendor's monthly average redemptions for the 12 months preceding the advance notification regarding the sanction; and
 - B) Either:
 - i) Disqualification from the WIC Program for 1 to 3 years; or
 - ii) Probationary status within the WIC Program.
- 2) For each minor violation a Vendor shall receive:
 - A) A fine assessment of \$500 or 5% of the Vendor's monthly average redemptions for the 12 months preceding the advance notification regarding the sanction; and
 - B) Probationary status within the WIC Program.
- 3) Multiple violations shall result in a cumulative fine assessment. The cumulative sanction imposed shall be determined based on the nature and seriousness of the combined violations, the extent of potential harm to WIC clients and the program, and the deterrent effect for the Vendor and other Vendors. The maximum fine shall be no more than the limits set forth in 7 CFR 246.12(k)(2)(ii).
- 4) All fine assessments shall be paid within 30 calendar days from the date of the Secretary's advance notification of administrative action or order, by cashier's check or certified money order in United States currency. If the Vendor fails to pay any fine assessed within 30 calendar days from the date of the Secretary's advance notification or order, the Department shall disqualify the Vendor from participation in the WIC Program until the fine is paid, and an additional fee of \$1,500 shall be required to reinstate Vendor Authorization.
- d) Participant Access Determinations:
 - 1) Prior to disqualifying a Vendor for a State major violation the Department shall determine if disqualification of the Vendor would result in inadequate participant Access.
 - 2) When making Participant Access determinations, the Department shall consider, at a minimum, the availability of other authorized vendors within the same area as the violative Vendor and any geographical barriers to using such vendors.
 - e) A Vendor remaining in the program shall provide certification that the situation giving rise to the violation has been corrected, with documentation regarding the correction as requested by the Department.
- Any--Class--A--Violation--shall--subject--a--Vendor--to--the--following sanctions:
 - 1) Reimbursement--from--the--WIC--Program--for--a--period--of--three--years--and
 - 2) A--fine--assessment--of--\$1500;--and
 - 3) Reimbursement--to--the--Department--for--any--overcharges--charges--for--items--not--received;--monies--paid--for--products--not--authorized--as--WIC--products;--and--monies--paid--for--food--instruments--accepted--without a--valid--contract;

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- b) Any--Class--B--Violation--shall--subject--a--Vendor--to--the--following sanctions:
 - 1) A--fine--assessment--of--\$750;--and
 - 2) Certification--that--situation--giving--rise--to--the--violation--has been--corrected;
- c) Any--Class--C--Violation--shall--subject--the--violation--to--the--following sanctions:
 - 1) A--fine--assessment--of--\$2,500--per--violation;--and
 - 2) Reimbursement--to--the--Department--for--the--Actual--Dollar(s)--Amount--of--Base--indicated--on--Food--Instruments--submitted--to--the--Department--a--contract--bank;--or--the--total--amount--which--was credited--or--paid--by--the--Department's--contract--bank--to--the--former Vendor;--individual;--Business--Entity--or--commercial--enterprise;--and
 - 3) Any--individual--who--held--any--ownership--interest--in--the--violation--shall--be--prohibited--from--applying--to--become--an--authorized--WIC Retail--Vendor--for--a--period--of--three--years;
 - d) All--fine--assessments--shall--be--paid--within--30--calendar--days--from--date--of--final--order--by--cashier--certified--check--or--money--order--in--United States--currency;--if--the--fine--assessment--is--not--received--by--the Department--within--30--calendar--days--from--the--date--of--the--final--order; any--collection--fees--and--any--other--costs--associated--with--the--collection of--the--fine--assessment--shall--be--paid--in--addition--to--the--fine;

(Source: Amended at 24 Ill. Reg. 75.09, effective MAY 1/2000)

Section 672.515 Vendor Rights Regarding Notice and Appeal Criteria--for Determination of Suspension of Authorization, Prohibition, and/or Fine Assessment

- a) Prior Warning:

The Department is not required to provide the Vendor with prior warning that violations were occurring before imposing sanctions pursuant to Section 672.505 or 672.510, or repudiating the agreement pursuant to Section 672.520.
- b) Advance Notification:
 - 1) The Department may take adverse action against a Vendor after providing 15-day advance notification, except that permanent disqualifications under Section 672.505(a) shall be effective on the date of receipt of notice of the administrative action.
 - 2) The written notification shall state the cause for the administrative action, its effective date and the procedures to file for an appeal of the action.
 - 3) The written notification shall be signed by the Secretary of the Department or his/her designee, and his/her decision therein may only be reversed by a subsequent decision or order by the Secretary or his/her designee pursuant to a hearing or settlement agreement.

DEPARTMENT OF HUMAN SERVICES

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c) Appealable Actions:

The Vendor may appeal the Department decision to disqualify or otherwise sanction a Vendor during the course of its agreement or contract with the Department, or to deny a Vendor's Application. The following are not appealable by way of administrative review:

- 1) expiration of a Vendor contract or agreement;
 - 2) the Department's determinations regarding Participant Access; or
 - 3) disqualification of a Vendor as a result of disqualification from the Food Stamp Program.
- a) A determination by the Secretary to terminate Authorization and impose a fine assessment shall be based upon a finding that one (1) or more of the following criteria are met:
- 1) the Vendor has not met one (1) or more requirements of the USDA WIC Regulations; the Act or the provisions of this Part;
 - 2) the Vendor has submitted false or erroneous or inaccurate information on the Application in the business or financial information provided to the Department; or the Retail Vendor Price Survey or during the course of inspections of the Vendor Site;
 - 3) the Vendor has been found by the Department to have violated provisions of Section 672-595(f);
 - 4) the Vendor has submitted a Federal Employers Identification Number (EIN) for the Business Entity operating as a Vendor which differs from the EIN filed for the same Business Entity with the USDA Food Stamp Program or with the Illinois Department of Revenue;
 - 5) the Vendor has not fulfilled the terms of the WIC Vendor Contract; or
 - 6) any person with an ownership interest of thirty percent (30%) or more in any entity authorized as a WIC Retail Vendor who has been convicted of criminal activity in connection with the USDA WIC Program.
- b) A determination by the Secretary to impose a fine shall be based upon a finding that a Vendor has been found by the Department to have violated provisions of Section 672-595(f);
- c) A determination by the Secretary to prohibit Vendor activity and impose a fine shall be based upon the finding that a former Vendor, individual Business Entity or commercial enterprise violated provisions of Section 672-595(f) or engaged in the activities of a WIC Vendor (see Section 672-510(c)).
- d) A determination by the Secretary to prohibit Vendor activity shall be based upon a finding that the Vendor failed to provide any information as specified in USDA WIC regulations; the Act or the provisions of this Part which shall be deemed a material breach of contract.
- e) If the Vendor fails to pay any fine assessed under this Part within thirty (30) calendar days from the date of the final order of the Department, shall suspend the Vendor and an additional fine of \$17,500.00 shall be required to reinstate Vendor Authorization.

DEPARTMENT OF HUMAN SERVICES

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- f) When the Secretary determines that the termination or suspension of a WIC Vendor's Authorization, prohibition of activity, and/or imposition of a fine assessment is to occur, the Department shall notify the Vendor, individual Business Entity or commercial enterprise that engages in WIC Vendor activities. The notice shall be in writing and shall include:
- 1) A statement of the nature of the basis for the adverse actions. The statement shall include a citation to the provisions of the USDA WIC Regulations; the Act or this Part on which the sanction is based.
 - 2) A description of the right of the Vendor, individually, Business Entity or commercial enterprise to appeal the adverse action and the right to a hearing.

(Source: Amended at 24 Ill. Reg. 75 09, effective MAY - 1 2000)

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR

ADMINISTRATIVE HEARINGS

Section 672.600 Hearings

To appeal an appealable action as set forth in Section 672.515(c) Any sanctions imposed pursuant to Section 672.225 or 672.510 of this Part shall afford the adversely affected party shall request the opportunity to appeal the action by requesting a hearing within 15 calendar days after receipt of the advance notification notice. The hearing Notices issued and hearings held shall be in accordance with 89 Ill. Admin. Code 508, with the addition of the following provisions:

- a) An administrative hearing must be requested within 15 calendar days after receipt of notice. Failure to request a hearing within this time frame shall constitute a waiver of the person's right to an administrative hearing.
 - b) The burden of proof rests with the Department in relation to all administrative actions initiated by the Department pursuant to Section 672.510.
 - c) The burden of proof rests with the Applicant as to all administrative actions initiated upon a petition for hearing filed by an Applicant after the denial of Authorization under Section 672.225, and with the Vendor in requests for hearing upon revocation of contracts under Section 672.520.
 - d) The Secretary or his designee shall be the final decision-maker in the administrative hearing.
 - e) The advance written notification set forth in Section 672.515(b) is not an "Emergency Action" for purposes of 89 Ill. Admin. Code 508.40.
- (Source: Amended at 24 Ill. Reg. 75 09, effective MAY - 1 2000)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 672.610 Appearance and Representation of a Party

~~the provisions of Section 190.4 of the Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 190) shall not apply to proceedings under this Party but shall be replaced by the following provisions:~~

- a) A Party may be represented by an attorney who is licensed to practice law in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:
 - 1) the name, address and telephone number of the attorney;
 - 2) the name and address of the party represented; and
 - 3) an affirmative statement indicating that the attorney is licensed to practice law in Illinois.
- b) An attorney ~~may withdraw from representation~~ ~~employment as a representative~~ ~~only upon written notice to the Department stating the reasons for withdrawal and consistent with the Code of Civil Procedure [735 ILCS 5/4-101]. Such withdrawal shall require an appropriate ruling by the Administrative Law Judge.~~
 - c) A sole proprietor who is authorized as a WIC Retail Vendor or former Vendor, or any person or entity engaged in the activity of a WIC Vendor may appear and be heard on his own behalf.
 - d) A corporation or association which is authorized as a WIC Retail Vendor or was authorized as a former Vendor, or any person or entity engaged in the activity of a WIC Vendor shall appear and be heard only by an attorney licensed to practice in the State of Illinois.
 - e) A partnership or limited partnership authorized as a WIC Retail Vendor or that was authorized as a former Vendor, or any person or entity engaged in the activity of a WIC Vendor may appear and be heard by any partner, upon presentation to the Department of written authorization from all partners authorizing him to act in a representative capacity.
 - f) A Limited Liability Company authorized as a WIC Retail Vendor or that was authorized as a former Vendor, or any persons or entity engaged in the activity of a WIC Vendor, shall appear and be heard only by an attorney licensed to practice in the State of Illinois.
 - g) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.
 - h) Each party to a proceeding who appears before the Department either in person or by counsel, shall inform the Department in writing or upon the record of the address at which any notice or other document may be served upon him or her in such proceeding. All further service may be made by regular mail unless otherwise required by statute or rule. Service shall be presumed unless disputed in the record.
 - i) Attorneys appearing before the Department shall conform their conduct to the Illinois Code of Professional Responsibility ~~effective December 1989 and as amended~~. Any failure to behave in a manner which permits the efficient functioning of the hearing will authorize the Administrative Law Judge to take the following actions:
 - 1) limitation of evidence;
 - 2) substitution of written argument in place of oral argument; or

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

3) exclusion of an attorney from the proceeding.

(Source: Amended at 24 Ill. Reg. 7509 effective MAY - 1 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Penny Severns Breast and Cervical Cancer Research Fund Rules

- 2) Code Citation: 77 Ill. Adm. Code 970

- 3) Section Numbers: Proposed Action:
970.10 Amendment
970.30 Amendment

- 4) Statutory Authority: Implementing and authorized by Section 2310-350 of the Civil Administrative Code of Illinois [20 ILCS 2310-350].

- 5) Effective Date of Amendments: May 15, 2000.

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: January 21, 2000, 24 Ill. Reg. 982

- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

- 11) Difference Between Proposal and Final Version: Various typographical, grammatical, and form changes were made in response to comments from the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

- 13) Will the rulemaking replace an emergency amendment currently in effect? No

- 14) Are there any other amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: This rulemaking is proposed to comply with Public Act 91-0107 that changed the name of the Breast and Cervical Cancer Research Fund to the Penny Severns Breast and Cervical Cancer Research Fund and added the Susan G. Komen Foundation as a mandated member of the Advisory Committee. Replaces reference to the Illinois Purchasing Act to reflect its repeal.

DEPARTMENT OF PUBLIC HEALTH

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- 16) Information and Questions Regarding these adopted amendments shall be directed to:

Paul D. Thompson
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@lph.state.il.us).

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER II: MISCELLANEOUS PROGRAMS AND SERVICES

PART 970

PENNY SEVERNS

BREAST AND CERVICAL CANCER RESEARCH FUND RULES

Section	Definitions
970.10	Eligibility
970.20	Application Procedures
970.30	Application Review Criteria
970.40	Notification of Award
970.50	Award and Use of Grant Funds
970.60	Monitoring Criteria
970.70	Monitoring Criteria
970.80	Contract Expiration
970.90	Termination of the Grant Agreement or Funding
970.100	Denial, Suspension or Revocation of Grant Agreement
970.110	Procedures for Hearings

AUTHORITY: Implementing and authorized by Section 2310-350 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-350].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 9549, effective June 10, 1994, for a maximum of 150 days; emergency expired on November 7, 1994; adopted at 18 Ill. Reg. 17919, effective December 5, 1994; amended at 24 Ill. Reg. 7543, effective MAY 15 2000.

Section 970.10 Definitions

"Act" means Section 2310-350 55-70 of the Civil Administrative Code of Illinois ~~as added by Public Act 88-85, effective--July--14,--1993~~ [20 ILCS 2310/2310-350 2310/55-70].

"Applicant" means any eligible physician, hospital, laboratory, education institution, other organization or person in Illinois whose intent is to conduct breast and cervical cancer research or to support a fellowship in the area of Breast and Cervical Cancer.

"Breast and Cervical Cancer Advisory Committee" means a committee chaired by the Director or his designee and composed of at least six additional members appointed by the Director, of which four ~~three~~ must be representatives of the State Board of Health, Y-We, Susan G. Komen Foundation, and American Cancer Society-Illinois Chapter and the remaining individuals must be knowledgeable of either breast or cervical cancer or representative of an at-risk population. With the

DEPARTMENT OF PUBLIC HEALTH

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exception of the Chair, no appointee shall be an employee of the Department.

"Breast Cancer" means malignant tumor of the breast characterized by uncontrolled, abnormally rapid division of cells that originate in the breast and surrounding tissue and may spread to other organs.

"Cervical Cancer" means malignant tumor of the narrow lower end or neck of the uterus (cervix) characterized by uncontrolled, abnormally rapid division of cells that originate in the cervix and surrounding tissue and may spread to other organs.

"Clinical Diagnosis" means the process of identifying a disease by its characteristic signs, symptoms and laboratory findings.

"Clinical Trial" means the testing of diagnostic, treatment, and prevention techniques by comparing results in patients randomly assigned to receive one of two or more techniques being tested.

"Cure" means the eradication of disease through removal of the risk of death invoked by the disease that was treated.

"Department" means the Illinois Department of Public Health.

"Detection" means the discovery of breast or cervical cancer in a woman previously thought to be free of such cancer.

"Diagnostic Evaluation" means use of various techniques including physical exams, mammography, and evaluation by a pathologist of breast or cervical cells removed from the body to determine the presence and type of cancer.

"Director" means the Director of the Illinois Department of Public Health.

"Early Detection" means discovery of breast or cervical cancer at the first possible time when spread to other organs is least likely to occur.

"Fellowship" means supervised practical experience for an individual in a health care or scientific specialty beyond that required to earn a doctorate or, in the case of medicine, beyond that provided to hospital resident physicians to broaden expertise in breast and cervical cancer.

"Funding Period" means the time (usually twelve months coinciding with the Department's Fiscal Year) during which money is to be spent in support of a particular research project or training course.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"General Award" means presentation of funds by the Department to an applicant to conduct research on breast and cervical cancer.

"Governmental Unit Code" means the Illinois Comptroller's preassigned vendor identification number for governmental agencies and municipalities.

"Grant Agreement Period" (see Funding Period).

"Not-for-profit" means a corporation as described in the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105].

"Peer Review Panel" means a group appointed by the Director, whose members demonstrate and are acknowledged to have expertise in areas dealing with breast and cervical cancer research.

"Prevention" means using various techniques including drugs, diet, and/or lifestyle changes to stop cancer from developing in healthy women.

"Principal Investigator" means the person with prime responsibility for conducting a research project.

"Project Period" means a minimum of one year and a maximum of three years (possibility of two continuation grants).

"Referral" means the process of linking persons who may be or who have been diagnosed with breast or cervical cancer with services in response to those needs.

"Research" means a scientific investigation into possible causes, location, progression, treatment, care and cure for breast and cervical cancer. Research includes, but is not limited to, expenditures to develop and advance the understanding, techniques, and modalities effective in early detection, prevention, cure, screening, and treatment of breast and cervical cancer and may include clinical trials. (Section 2310-350 55-70 of the Act)

"Research Fund" means the Penny Severs Breast and Cervical Cancer Research Fund, which is a special fund in the State Treasury as described in Section 2310-350 55-70 of the Civil Administrative Code of Illinois.

"Research Fund Checkoff" means a voluntary process by which an Illinois taxpayer may use a provision on the standard individual income tax form to contribute to the Penny Severs Breast and Cervical Cancer Research Fund.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Research Grant" means funding provided to qualified principal investigators to investigate specific questions related to breast and cervical cancer research.

"Screening" means examining and testing for cancer in women who have no overt symptoms of cancer.

"TIN number" means the nine digit Federal Taxpayer Identification Number also known as the Federal Employer Identification Number (FEIN), Social Security Number, or Governmental Unit Code.

"Training and Continuing Education" means extending or updating the knowledge of research scientists, health care professionals and other allied persons.

"Treatment" means the management and care of a woman for the purpose of combating breast or cervical cancer.

(Source: Amended at 24 Ill. Reg. 7543, effective MAY 15 2000)

Section 970.30 Application Procedures

The Department shall provide written application instructions and forms to potential applicants.

a) All applications shall include the following:

- 1) the principal investigator's name, address, and telephone and FAX and teletypewriter (TTY) numbers, if available;
- 2) the name, address, and telephone and FAX and TTY numbers, if available, of the entity (such as a university) through which the application is being submitted, if different from the information provided in subsection (a)(1) of this Section;
- 3) the curriculum vitae of the principal investigator;
- 4) a one-page non-technical abstract, which describes the significance of the applicant's project for breast and/or cervical cancer research;
- 5) the Social Security Number, Taxpayer Identification Number (TIN) or the Governmental Unit Code assigned by the State of Illinois, Office of the Comptroller;
- 6) the signature of principal investigator or agency official authorized to certify the application;
- 7) an approximate timetable for project completion;
- 8) a detailed budget for the funding period, documenting sufficient resources to carry out the project. The budget shall be by line item category and shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the project(s), the anticipated funding request for year 2 and 3 of the project (if

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- applicable), the source of other funds supporting the project(s), the amount of support requested from the Department;
- 9) a signed Statement of Assurances indicating compliance with applicable State and Federal requirements, such as the Fiscal Control and Internal Auditing Act, Office of Management and Budget (OMB) Circular A-128 (local governments), OMB Circular A-133 (not-for-profit organizations), bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, Federal Civil Rights Act, Drug Free Workplace Act, Davis-Bacon Act, conflict of interest as specified in the Illinois Procurement Code [30 ILCS 500] Purchasing Act, and protection of the confidentiality of services;
 - 10) a statement of whether funds are being requested for a fellowship or a general award;
 - 11) a statement of the research question or hypothesis, or a description of intervention(s) or model program(s) on which the research will be based;
 - 12) a prioritized listing of measurable objectives for the funding period;
 - 13) for each objective proposed for the first year of the project, a sequential listing of activities to achieve the objective, the time line for completing each activity, identification of the individual responsible for coordinating the implementation of each objective; and
 - 14) the evaluation methods to be used to measure progress in achieving objectives and a plan for monitoring the overall project.
- b) If the funds are being requested to support a fellowship, the following information shall be provided in addition to the information required in subsection (a) of this Section:
- 1) the name of individual to be supported through the fellowship;
 - 2) the curriculum vitae of individual; and
 - 3) at least one letter of recommendation from the principal investigator or agency official authorized to certify the application.
- c) All continuation applications shall contain the information required in subsection (a) and, in addition, shall include the following:
- 1) a progress report which contains a description of the status of each activity of the project to date, utilizing the evaluation methods and monitoring plan specified in subsection (a)(14) of this Section;
 - 2) documentation of progress in meeting each project objective;
 - 3) the project objectives for the new grant year, along with activities and timelines for completion of each activity; and
 - 4) any revisions in the evaluation methods or the monitoring plan, along with the rationale for such revisions.

(Source: Amended at 24 Ill. Reg. 75 43, effective

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NOTICE OF ADOPTED AMENDMENTS

MAY 15 2000

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Visa Waiver Program for International Medical Graduates

2) Code Citation: 77 Ill. Adm. Code 591

3) Section Numbers: Proposed Action:
591.20 Amendment
591.100 Amendment

4) Statutory Authority: Immigration and Nationality Act [8 USC 1182 and 1184] and Exchange Visitor Program [22 CFR 514]

5) Effective Date of Amendments: May 15, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: January 14, 2000, 24 Ill. Reg. 482

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference Between Proposal and Final Version: Various style and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency amendment currently in effect? No

14) Are there any other amendments pending on this Part? No

15) A Complete Description of the Subjects and Issues Involved: The Part implements Federal law authorizing a Visa waiver for international medical graduates that contract to work in an Illinois Health Professional Shortage Area. The rulemaking adds a definition of "urban" to aid in the application of the Part's provisions that include only urban areas and to differentiate from the Part's provisions that apply to the already-defined "rural" areas. The definition of "full-time practice" is changed for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

consistency with the federal Immigration and Nationality Act. The rulemaking also clarifies for urban medical facilities applying to participate in the program the requirement that the facility be located in a Health Professional Shortage Area.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul D. Thompson
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@lghp.state.il.us).

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER 3: PROCESSING J-1 VISA WAIVERS FOR INTERNATIONAL MEDICAL GRADUATES

PART 591

VISA WAIVER PROGRAM FOR INTERNATIONAL MEDICAL GRADUATES

SUBPART A: GENERAL PROVISIONS

Section
591.10 Applicability
591.20 Definitions
591.30 Incorporated or Referenced Materials
591.40 Administrative Hearings

SUBPART B: PROCEDURES FOR J-1 VISA WAIVER REQUESTS

Section
591.100 Participation Eligibility of Physicians and Facilities
591.110 Application Submission Timeframes
591.120 Application Materials and Processing
591.130 Selection Process
591.140 Terms of Performance

AUTHORITY: Authorized by and implementing Section 212(e) of the Immigration and Nationality Act (8 USC 1182(e)) and Section 214(k) of the Immigration and Nationality Act (8 USC 1184), and 22 CFR 514, the Final Rule of the U.S. Information Agency, Waiver of Two-Year Home-Country Physical Presence Requirement, Foreign Medical Graduates, Exchange Visitor Program.

SOURCE: Adopted at 22 Ill. Reg. 14485, effective July 24, 1998; amended at 24 Ill. Reg. ~~7551~~, effective ~~MA 15 2000~~.

SUBPART A: GENERAL PROVISIONS

Section 591.20 Definitions

"Act" means the Immigration and Nationality Act (8 USC 8-S-E- 1182(e) and 8 USC 8-S-E- 1184(k)).

"Community Health Center" means community/migrant health centers or health care for the homeless projects supported under Section 329, 330 or 340 of the Federal Public Health Service Act (42 USC 8-S-E- 254b, 254c, and 256), respectively, or federally qualified health center look-alikes, as designated by the U.S. Public Health Service.

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"Center" means the Center for Rural Health of the Illinois Department of Public Health.

"Department" means the Illinois Department of Public Health.

"Downstate" means those Illinois counties other than Cook, Lake, McHenry, DuPage, Will and Kane.

"Full time practice" means maintaining **office** hours for medical **patient** care as required under the Act and the Code of Federal Regulations **that equal or exceed the mean number of office hours--per week--reported by physicians by specialty--and published in Table 9 of the American Medical Association's Socioeconomic Characteristics of Medical Practice, 1995.**"

"Health Professional Shortage Area" or "HPSA" is a designation given by the U.S. Department of Health and Human Services, Bureau of Primary Health Care, Division of Shortage Designation. The HPSA designation for primary care physicians is based on the ratio of physicians in the specialties of family practice, general internal medicine, general pediatrics, and obstetrics-gynecology and is used to identify areas needing additional primary care physicians. The list of HPSAs is published periodically in the Federal Register, most recently on December 31, 1996.

"Medical facility" means a facility for the delivery of health services and includes:

a community health center, public health center, outpatient medical facility, or community mental health center;

a hospital, State mental hospital, facility for long-term care or rehabilitation facility;

a facility for delivery of health services to inmates in a U.S. penal or correctional institution (under section 323 of the Public Health Service Act) or a State correctional institution;

a Public Health Service medical facility (used in connection with the delivery of health service under Section 320, 321, 322, 324, 325 or 326 of the Public Health Service Act); or any other federal medical facility.

"Primary care" means health care that encompasses prevention services, basic diagnostic and treatment services, and support services such as laboratory, radiologic, transportation, and pharmacy. Primary care is comprehensive in nature and not organ or problem specific, is oriented toward the longitudinal care of the patient, and includes

DEPARTMENT OF PUBLIC HEALTH

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responsibility for coordination of other health and social services as they relate to patients' needs.

"Primary care physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60] with a specialty in family practice, general internal medicine, general pediatrics, or obstetrics/gynecology.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less.

"Urban" means any geographic area located in a U.S. Bureau of the Census Metropolitan Statistical Area, except a county located within a Metropolitan Statistical Area having a population of 60,000 or less.

(Source: Amended at 24 Ill. Reg. 7551 - effective
MAY 15 2000)

SUBPART B: PROCEDURES FOR J-1 VISA WAIVER REQUESTS

Section 591.100 Participation Eligibility of Physicians and Facilities

a) Physicians eligible to participate in the J-1 Visa Waiver Program for International Medical Graduates in Illinois shall meet the following requirements:

- 1) have entered into an employment contract with a facility located in an HPSA with employment to begin no later than six months after the completion of their residency training in one of the primary care specialties;
- 2) be board eligible or board certified in family practice, general internal medicine, general pediatrics, or obstetrics/gynecology; and
- 3) have completed a residency in general internal medicine or general pediatrics, if either of those specialties are indicated in the application of the physician seeking participation in this program.

b) Medical facilities eligible to participate in the J-1 Visa Waiver Program in Illinois shall meet the following requirements:

- 1) in rural areas, be located in a geographic HPSA, be designated as a facility located in an HPSA, or serve a population group HPSA, and be able to document that at least 75% of the patients seen at the facility are a part of the HPSA's population group; or
- 2) in urban areas, be located in a geographic HPSA, be designated as a facility located in an HPSA or serve a population group HPSA, be able to document that at least 75% of the patients seen at the facility are a part of the HPSA's population group, and be a

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not-for-profit facility or a public facility.

(Source: Amended at 24 Ill. Reg. 7551 - effective
MAY 15 2000)

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY AMENDMENTS

- 1) **Heading of the Part:** Mortgage Guaranty Insurance
- 2) **Code Citation:** 50 Ill. Adm. Code 202
- 3) **Section Numbers:**
202.20
202.30
Emergency Action:
Amendment
Amendment
- 4) **Statutory Authority:** Implementing Article II and authorized by Sections 4 and 401 of the Illinois Insurance Code [215 ILCS 5/4, 6 through 35, and 401].
- 5) **Effective Date of Amendments:** May 3, 2000
- 6) **If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire:** Upon the adoption of the permanent rule.
- 7) **Date Filed with Index Department:** May 3, 2000

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.

9) **Reason for Emergency:** Currently in Illinois potential homeowners are unable to purchase a home if they have less than 5% of the down payment because insurance companies are prohibited from offering mortgage insurance for 100% of the value of the home pursuant to the requirements of this Part. The mortgage insurance industry would like to provide insurance for 100% of the value of a home in Illinois like they are currently permitted to do in New York and California.

The public interest and welfare of potential home buyers in Illinois will be greatly improved by allowing the insurance industry to offer mortgage insurance up to 100% of the value of the home. Modifying the requirements of this Part by emergency rulemaking will enable Illinois citizens to take advantage of moderate interest rates being offered by the banking industry in a stable real estate market.

10) **A Complete Description of the Subjects and Issues Involved:** The definition of "Authorized real estate security" currently prohibits home buyers from purchasing a house if they have less than 5% of the down payment. This emergency amendment will allow home buyers to purchase mortgage insurance for 100% of the value.

11) Are there any proposed amendments to this Part pending? Yes, in conjunction with this Emergency Amendment identical proposed amendments have been initiated.

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY AMENDMENTS

- 12) **Statement of Statewide Policy Objectives:** This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 13) **Information and questions regarding this amendment shall be directed to:**

Chuck Peinen	Denise Hamilton
Staff Attorney	Rules Unit Supervisor
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
Springfield, Illinois 62767-0001	Springfield, Illinois 62767-0001
(217) 557-1396	(217) 785-9560

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER b: DOMESTIC STOCK COMPANIES

PART 202

MORTGAGE GUARANTY INSURANCE

Section

202.10 Authority and Application

202.20 Definitions

EMERGENCY

202.30 Restrictions on the Transaction of Business

EMERGENCY

202.40 Reinsurance

202.50 Reserves

202.60 General

ILLUSTRATION A

Unearned Premium Factor to be Applied to Premiums In Force on Valuation Date

AUTHORITY: Implementing Article II and authorized by Sections 4 and 401 of the Illinois Insurance Code [215 ILCS 5/4, 6 through 35, and 401].

SOURCE: Adopted at 3 Ill. Reg. 50, p. 265, effective December 3, 1979; emergency repealer and emergency rule adopted at 6 Ill. Reg. 5830, effective April 23, 1982, for a maximum of 150 days; rules repealed and new rules adopted and codified at 6 Ill. Reg. 15181, effective December 7, 1982; amended at 10 Ill. Reg. 14672, effective August 23, 1986; emergency amendment at 24 Ill. Reg. ~~7557~~, effective May 3, 2000, for a maximum of 150 days.

Section 202.20 DefinitionsEMERGENCY

"Authorized real estate security" means a promissory note, bond or other evidence of indebtedness which, at the time of origination, does not, when added to any prior secured indebtedness relating to the real estate, exceed 100% ~~ninety-five-per-cent-(95%)~~ of the fair market value of said real estate; ~~for-first-items-and-ninety-(90%)--for--all-other-items,~~ and which is secured by mortgage, deed of trust, or other instrument constituting a lien or charge, provided such indebtedness represents a type of loan authorized to be made by a bank, savings and loan association, insurance company and, in the case of residential loans only, mortgage bankers regulated and supervised by a department of the State of Illinois or by an agency of the federal government of the United States of America;

"Director" means the Director of Insurance of the State of Illinois or anyone to whom the Director's responsibilities and authority are

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY AMENDMENTS

lawfully Delegated.

"Fair market value" means the lesser of sales price or appraised value;

"Mortgage guaranty insurance" means insurance against financial loss by reason of the nonpayment of principal, interest and other sums agreed to be paid under the terms of:

A promissory note, bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on improved one to four family residential or commercial real estate, including, without limitation, condominiums and owner-occupied mobile homes;

A promissory note, bond or other evidence of indebtedness secured by a mortgage, deed of trust, pledge or other instrument constituting a lien or charge on shares of stock evidencing ownership of a residential cooperative housing unit; or

A written lease for the possession, use or occupancy of improved residential or commercial real estate;

"Mortgage pool insurance" means mortgage guaranty insurance written on a group of loans insuring each one individually but which limits liability to an agreed percentage of all loans in the group;

"Reserves" shall have the following meanings:

Reserves for policyholders means surplus as regards policyholders and contingency reserves as reported in the last filed annual financial statement;

Reserve for general expenses required by Section 202.50(a) of this Part hereunder;

Reserve for losses outstanding required by Section 202.50(b) of this Part hereunder;

Reserve for unearned premiums required by Section 202.50(c) of this Part hereunder.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. ~~7557~~, effective May 3, 2000, for a maximum of 150 days)

Section 202.30 Restrictions on the Transaction of Business
EMERGENCY

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY AMENDMENTS

- a) A company shall not transact the business of mortgage guaranty insurance unless it originally has and continues to have capital and surplus of at least the amounts specified in Section 13 of the Illinois Insurance Code.

- b) A mortgage guaranty insurance company

- 1) Shall not insure loans with balloon provisions unless either
 - A) liability for the balloon payment is specifically excluded or
 - B) the policy provides, by its terms, that at the time the lender calls the loan, the lender will cause to be offered new or extended financing at then market rates.
- 2) Shall not, at any one time, have more than **twenty-percent-~~t~~ 20%** of its insurance in force net of reinsurance ceded but including reinsurance assumed, on adjustable rate loan instruments which establish payments insufficient to fully amortize the loan over its term and negatively amortizing graduated payment mortgage which, at any time during the term of mortgage, causes the outstanding indebtedness to exceed **100% 95%** of the initial fair market value of the real estate, thereby causing the outstanding loan balance to increase following loan origination (vis: "dual rate" mortgages).
- 3) Shall not insure mortgages referred to in Section 202.30(b)(2) above which:
 - A) Permit the accumulation of negative amortization of principal to an amount exceeding **120%** of the initial fair market value, or
 - B) Provide for the borrower to make payment in an amount less than which would be required for the full amortization of the mortgage at an interest rate of **10%**, or
 - C) Were established under agreements which authorize the lender to bind coverage on the insurer's behalf without prior underwriting by the insurer.
- 4) Shall not, at any one time following two years from receipt of its initial Certificate of Authority from its state of domicile, have more than **40-percent-~~t~~ 10%** of its insurance in force, net of reinsurance ceded but including reinsurance assumed, on loans originating from any one lender.
- 5) Which writes residential mortgage guaranty insurance shall not, either directly or indirectly, have at any time more than **twenty percent-~~t~~ 20%** of its insurance in force on commercial properties;
- 6) Shall not assume reinsurance in an amount exceeding **twenty percent-~~t~~ 20%** of the company's total insurance in force.
- 7) Shall maintain a policyholders reserve in an amount no less than its amount arrived at by the calculations set forth below and if its policyholders reserve is less than said amount it shall discontinue all writing of business until its policyholders reserve equals or exceeds the minimum amount herein required.

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NOTICE OF EMERGENCY AMENDMENTS

The required policyholders reserve shall be calculated in the following manner:

- A) subject to the provisions of subsections (b)(7)(B), (C), (D), (E), (F), and (G) of this Part hereunder, if the indebtedness is
- i) **seventy-five-percent-~~t~~ 75%** or greater of the value of the securing property:

Policyholders Reserve Per \$100 of the Face Amount of The Mortgage	Per Cent Coverage	%
\$.20	5	
.40	10	
.60	15	
.80	20	
1.00	25	
1.10	30	
1.20	35	
1.30	40	
1.35	45	
1.40	50	
1.50	55	
1.55	60	
1.60	65	
1.65	70	
1.75	75	
1.80	80	
1.85	85	
1.90	90	
1.95	95	
2.00	100	

- ii) **Fifty-percent-~~t~~ 50%** or of greater but less than seventy-five of the value of the securing property, the required amount of the policyholders reserve shall be **fifty-percent-~~t~~ 50%** of the amount required by subsection (b)(7)(A)(i) above; and
 - iii) less than **fifty-percent-~~t~~ 50%** of the value of the securing property, the required amount of the policyholders reserve shall be **twenty-five-percent-~~t~~ 25%** of the amount required by subsection (b)(7)(A)(i) above;
- B) In the case of mortgage pool insurance,
- i) If the total aggregate indebtedness of the group of loans covered is **seventy-five-percent-~~t~~ 75%** or greater of the total aggregate value of the securing

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properties after giving appropriate credit for any primary mortgage guaranty insurance thereon and/or deductibles:

Per Cent Coverage	Policyholders Reserve Per \$100 of the Face Amount of The Mortgage
1%	\$.60
5	1.00
10	1.20
15	1.30
20	1.40
25	1.50
30	1.55
40	1.60
50	1.65
60	1.70
70	1.75
75	1.80
80	1.85
90	1.90
100	2.00

- ii) If the total aggregate indebtedness of the group of loans covered is ~~fifty-percent-† 50%~~ or greater but less than ~~seventy-five-† 75%~~ of the total aggregate value of the securing properties after giving appropriate credit for any primary mortgage guaranty insurance thereon and/or deductibles, the required amount of policyholders reserve shall be ~~fifty-percent-† 50%~~ of the amount required by subsection (b)(7)(B)(i) above; and
- iii) If the total aggregate indebtedness of the group of loans covered is ~~fifty-percent-† 50%~~ of the total aggregate value of the securing properties after giving appropriate credit for any primary mortgage guaranty insurance and/or deductibles, the required amount of policyholders reserve shall be ~~twenty-five percent-† 25%~~ of the amount required by subsection (b)(7)(B)(i) above; and
- C) In the case of (a) mortgage guaranty insurance covering loans secured by liens other than first liens, the policyholders reserve shall be calculated in accordance with subsection (b)(7)(A) above after first dividing the insured portion of the junior loan by the entire loan indebtedness on the securing property to determine the percentage

coverage and then dividing the total of all loans on the securing property to determine the percentage of loan-to-value ratio; and (b) mortgage pool insurance on a group of loans secured by liens other than first liens, the policyholders reserve shall be calculated in accordance with subsection (b)(7)(B) above after the percentage of coverage and loan-to-value ratios have been determined.

- D) In the case of mortgage guaranty insurance covering all of the risk in excess of a fixed percentage of the initial fair market value of the real estate, the required amount of policyholders reserve shall be ~~one-hundred-twenty-five percent-† 125%~~ of the amount required under subsection (b)(7)(A)(i).
- E) In the case of mortgage guaranty insurance covering loan installments reference in subsection 202.30(b)(2) above, the required amount of policyholders reserves shall be ~~one hundred-fifty-percent-† 150%~~ of the amount required under subsection (b)(7)(A). In the case of such mortgage also meeting conditions under subsection (b)(7)(D) above, the required reserve shall be ~~one-hundred-seventy-five-percent-† 175%~~ of the amount required under subsection (b)(7)(A)(i).
- F) In the case of mortgage guaranty insurance which specifically covers leasehold obligations, the policyholders reserve shall be \$4.00 for each ~~one-hundred-dollars-† \$100~~ of leasehold rentals insured;
- G) If a policy of mortgage guaranty insurance or of mortgage pool insurance provides for layers of coverage, deductibles or reinsurance, the required amount of policyholders reserves shall be computed by subtraction of the required policyholders reserve for the lower percentage coverage limit from the required policyholders reserve for the upper or greater coverage limit.
- H) All calculations done under subsection (b)(7) shall be done in a uniform and consistent fashion to assure that the policyholders reserve so established and maintained bears a reasonable relationship to the risk undertaken by the company.
- 8) Shall, in connection with the writing of mortgage guaranty insurance, individually underwrite all loans insured;
- 9) Which anywhere transacts, directly or indirectly, any class of insurance other than mortgage guaranty insurance and/or mortgage pool insurance shall not be permitted to transact any insurance business in the State of Illinois.
- 10) Shall not declare any dividends except from undivided profits remaining on hand over and above the amount of its policyholders reserve;
- 11) Shall adopt, print and make available a schedule of premium charges for mortgage guaranty insurance policies which schedule

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY AMENDMENTS

shall show the entire amount of premium charge for each type of mortgage guaranty insurance policy issued by the company:

- 12) Shall not pay to any person who is acting as agent, representative, attorney or employee of the owner, mortgagee of the prospective owner, or mortgagee of real property or any interest therein, either directly or indirectly, any commission, or any part of its premium charges or any other consideration as an inducement for or as compensation on any mortgage guaranty insurance policy;

13) Rebates

No mortgage guaranty company shall make any rebate of any portion of the premium charge shown by the schedule required by subsection (b)(11). No mortgage guaranty company shall quote any premium charge to any person which is less than that currently available to others for the same type of mortgage guaranty insurance policy. The amount by which any premium charge is less than that called for by the current schedule of premium charge is an unlawful rebate.

- c) Whenever a mortgage guaranty company provides coverage exceeding 30% of the mortgage indebtedness at the time foreclosure proceedings are completed and title to the authorized real estate security is vested in such assured, unless the coverage provides that the lender be a not less than 5% co-insurer of losses, no mortgage guaranty insurer shall permit an insured to bind coverage on its behalf and shall not assume contracts of insurance without first individually underwriting each mortgage loan insured.

d) A mortgage guaranty insurance company

- 1) Must not have a total liability, net of reinsurance, of mortgage pool insurance on mortgages from any one originating lender which exceeds 10% of the mortgage guaranty insurance company's surplus, including contingency reserve.

- 2) Shall not permit substitutions in a pool of mortgages and shall not permit additions to a pool of mortgages after ~~three--t~~ 3+ years following the issuance of a policy providing mortgage pool insurance.

- e) An insurance company with multiple line authority that transacts insurance business other than mortgage insurance and/or mortgage pool insurance is prohibited, either directly or indirectly, from transacting mortgage insurance and/or mortgage pool insurance in the State of Illinois.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 7557, effective May 3, 2000, for a maximum of 150 days)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part for which proposed amendment notice is being corrected: Medicaid Community Mental Health Services Program
- 2) Code Citation: 59 Ill. Adm. Code 132
- 3) Illinois Register citation to Notice of Proposed Amendments: Issue Date: May 5, 2000, 24 Ill. Reg. 6768
- 4) The information being corrected is as follows: #12 on the Notice of Proposed Amendments

Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: statewide providers of community mental health services

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

ILLINOIS RACING BOARD

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Claiming Races
- 2) Code Citation: 11 Ill. Adm. Code 510
- 3) The Notice of Proposed Amendments being corrected appeared at: 24 Ill. Reg. 6856, dated May 5, 2000
- 4) The information being corrected is as follows: Answer 5 of the notice page should read: This rulemaking increases the time frame during which a claimed horse may not be sold or transferred.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 1, 2000 through May 8, 2000 and have been scheduled for review by the Committee at its May 16, 2000 or June 13, 2000 meetings in Chicago. Other items not

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
6/14/00	Department of Public Aid, Specialized Health Care Delivery Systems (89 Ill Adm Code 146)	2/18/00 24 Ill Reg 2586	5/16/00
6/14/00	Department of Revenue, Cigarette Tax Act (86 Ill Adm Code 440)	2/25/00 24 Ill Reg 3096	6/13/00
6/14/00	Department of Revenue, Cigarette Use Tax Act (86 Ill Adm Code 450)	2/25/00 24 Ill Reg 3102	6/13/00
6/14/00	Illinois Commerce Commission, Pay Telephone Providers (83 Ill Adm Code 771)	10/1/99 23 Ill Reg 11790	6/13/00
6/14/00	Department of Public Health, The Illinois Water Well and Pump Installation Contractor's License Code (77 Ill Adm Code 915)	3/10/00 24 Ill Reg 3730	6/13/00
6/15/00	Department of Public Health, Illinois Water Well Construction Code (77 Ill Adm Code 920)	8/27/99 23 Ill Reg 10115	6/13/00
6/16/00	Department of Natural Resources, Commercial Fishing in Lake Michigan (17 Ill Adm Code 850)	3/17/00 24 Ill Reg 4025	6/13/00
6/16/00	Department of Natural Resources, General Hunting and Trapping on Department-Owned or -Managed Sites (17 Ill Adm Code 510)	3/17/00 24 Ill Reg 4031	6/13/00
6/16/00	Department of Insurance, Managed Care Reform and Patient Rights (50 Ill Adm Code 5420)	3/17/00 24 Ill Reg 4008	6/13/00

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